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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Third to fifth periodic reports of States parties due in 2012

Republic of Korea*, **, ***

[Date received: 29 February 2016]

* The second periodic report of the Republic of Korea is contained in document CAT/C/53/Add.2, it was considered by the Committee at its 711th and 714th meetings, held on 11 and 12 May 2006 (CAT/C/SR.711 and 714). For its consideration, see the Committee's concluding observations (CAT/C/KOR/CO/2).

** The present document is being issued without formal editing.

*** The annexes to the present report are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Committee against Torture.

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I. Introduction

1. The Republic of Korea (ROK), as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "Convention"), submits hereby its third, fourth, and fifth Periodic Reports[1] pursuant to Article 19 of the Convention. The present report focuses on the measures taken from 2006 to 2015 to implement the Convention and the previous recommendations of the Committee against Torture (hereinafter referred to as "Committee").

2. The Government arranged two separate meetings with civil organizations for the preparation of this report. The first meeting was held on 22 May 2012, prior to drafting the report, where representatives from ministries, the National Human Rights Commission of Korea (NHRCK) and non-governmental organizations (NGOs) shared ideas regarding the preparation of the report. The second meeting was held on 19 June 2012 to gather detailed feedback on the initial draft prepared by the Government, at which representatives from ministries and organizations, the NHRCK, and NGOs participated and engaged in in-depth discussion on the initial draft. Moreover, in accordance with Article 21 of the *National Human Rights Commission Act*, the Government requested the opinion of the NHRCK on the initial draft on 21 June 2012 and received it on 15 October 2012. Through internal discussions, the Government endeavored to reflect the opinions of NGOs and the NHRCK as much as possible in the report.

II. Specific information on the implementation of Articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

Reply to the issues raised in Paragraph 1 of the list of issues (CAT/C/KOR/Q/3-5)[2]

3. The *Criminal Act* has not been amended to include a specific definition of torture as prescribed in Article 1 of the Convention. However, the provisions of the *Criminal Act*, including Article 124 (illegal arrest and confinement) and Article 125 (violence and cruel acts), and other special criminal laws criminalize and punish all aspects of torture as described in the first and the second reports (CAT/C/32/Add.1 Paras. 105-111; CAT/C/53/Add.2 Paras. 28, 100-101).

4. A punishment provision against torture was included in the *Act on the Punishment of Crimes under the Jurisdiction of the International Criminal Court*, enacted on 21 December 2007. This Act was established to implement the *Rome Statute of the International Criminal Court*. Since the Rome Statute declares certain types of torture as crimes under the jurisdiction of the International Criminal Court, the Act also criminalizes such acts of torture and punishes offenders by imprisonment for life or for not less than five years (Art. 9 Para. 2(5), Art. 10 Para. 2(2)).

5. Meanwhile, the Special Subcommittee on the Amendment of Criminal Legislations, an advisory body to the Minister of Justice, has discussed the amendment of the *Criminal Act* and will carefully examine whether Article 125, a representative provision that punishes

[1] Please refer to the Annex for Tables.

[2] Hereinafter, "of the list of issues (CAT/C/KOR/Q/3-5)" is omitted.

violence and cruel acts committed by public officials, needs to be amended to reflect the definition of torture under Article 1 of the Convention.

Reply to the issues raised in Paragraph 2

6. The *National Security Act* protects the liberal democracy of the ROK as it remains in a unique and confrontational state of division with the Democratic People's Republic of Korea (DPRK). Through strict interpretation and judicious application, the Government has made efforts to prevent abuse of the *National Security Act*.

7. The Constitutional Court and other courts prevent arbitrary interpretation of the *National Security Act* by establishing strict rules to its interpretation. The Constitutional Court interpreted Article 7 Paragraph 1 of the *National Security Act* as follows: "Only in a case where there is a clear danger of harming existence and safety of the State or fundamental order of liberal democracy shall this Act be applied" (2003Hun-Ba85/102). The prosecutors' offices, the police, and the National Intelligence Service judiciously apply the *National Security Act* in conformity with the standards and intent of the interpretation of the Act presented in the decisions and judgments of the Constitutional Court and other courts and put constant efforts to observe due process of law in order to prevent human rights violations during investigations.

8. Major judgments on the *National Security Act* since 2006 are as follows:

(a) The Supreme Court decided that while the DPRK is a partner in dialogue and cooperation for the peaceful unification, it also holds the nature of an anti-government organization scheming to overturn liberal democracy in the ROK. In this regard, the Supreme Court upheld the validity of the power of the *National Security Act* to regulate anti-government organizations (2003Do758);

(b) In case of crimes related to materials containing pro-enemy expressions, the Supreme Court ruled that prosecutors shall prove the purpose of the defendant to commit pro-enemy acts that falls within the scope of Article 7 Paragraph 5 of the *National Security Act* (2010Do1189). This overruled the precedent that a person who acquired, held, manufactured, or distributed materials with the awareness of pro-enemy expression materials is presumed to have had the purpose to commit pro-enemy acts.

9. The *National Security Act* does not provide for separate grounds for arrest or detention. Like other criminals in general, the national security offenders are arrested, detained, or tried according to the *Criminal Procedure Act* and the *Rules on Criminal Procedure*. They are detained not separately but with other criminals at detention centers or prisons.

10. The principle of investigation without detention also applies to the *National Security Act* violation cases. With efforts to judiciously apply the *National Security Act* in deference to the decisions and judgments of the Constitutional Court and other courts, the number of persons detained under the *National Security Act* significantly decreased compared to the number indicated in the second report (CAT/C/53/Add. 2): from January 1997 to November 2002, the number was 1,797, but from 2006 to 2015, it stood at a mere 221. From 2006 to 2015, 22 persons in 2006, 17 in 2007, 16 in 2008, 18 in 2009, 32 in 2010, 19 in 2011, 26 in 2012, 38 in 2013, 7 in 2014, and 26 in 2015 were detained under the *National Security Act*. During the same period, 417 persons were prosecuted under the *National Security Act*.

Article 2

Reply to the issues raised in Paragraph 3

11. Details of the Human Rights Violation Hotline Center (hereinafter referred to as "Hotline Center") of the Ministry of Justice (MOJ) are as described in the additional State party's follow-up report submitted after the review of the Second Periodic Report and the fourth International Covenant on Civil and Political Rights (ICCPR) report (CAT/C/KOR/CO/2/Add.2 Paras. 2-6; CCPR/C/KOR/4 Paras. 124-125).

12. Among the 12,282 cases reported and 11,344 received from May 2006 to December 2015, 737 (6.5%) were accepted and remedied (see table 1). There was one case in 2007, for which the Hotline Center recommended a disciplinary resolution to the relevant organization. Also, petitioners' requests such as medical treatment, change of detention location have been accepted and institutions or facilities that have engaged in human rights violations have been improved.

13. The Human Rights Divisions were established in the Ministry of National Defense (MND) in January 2006 and within the Army, Navy, and Air Force in 2007 in order to prevent torture and ill-treatment during law enforcement in the armed forces. The *Directive on Military Human Rights Affairs* was issued in order to lay the legal ground for educating military personnel such as military investigators and military corrections personnel about human rights, to regulate the investigation and handling of human rights violation cases in the military, and to guarantee military inmates whose human rights have been violated the right to petition (Art. 44). The *Basic Act on the Military Personnel's Status and Service*, which stipulates military personnel's duties, rights, barrack life, and remedies of their rights, was enacted on 29 December 2015 to strengthen protection of human rights in the military.

14. The Human Rights Protection Division of the National Police Agency was transferred from the Investigation Bureau to the Audit Bureau on 22 October 2010, bolstering its role as the actual control tower for human rights protection within the police. In addition, under the *Duty Regulation of Police Officers for Human Rights Protection* (Directive of the National Police Agency), the Commissioner General of the National Police Agency and the heads of subordinate agencies shall request personnel or disciplinary measures if they conclude that human rights education alone cannot prevent human rights violations from reoccurring due to factors such as the gravity or repetitiveness of the violations (Art. 118 Para. 2).

Reply to the issues raised in Paragraph 4

15. The Hotline Center regulates the MOJ internally. It covers human rights violations that may occur while the officials of the MOJ, its subordinate organizations, and prosecutors' offices are performing their duties. Meanwhile, each Bureau and Service of the MOJ has the authority to investigate and correct cases of violations committed by its officials. The Hotline Center has jurisdiction over all the duties carried out by each Bureau and Service of the MOJ, unrestricted by and independent of the authority of each Bureau and Service to investigate. When necessary, the Center transfers some of its cases to relevant Bureaus and Services. It directly investigates severe cases or cases that require urgent relief, such as cruel acts or cases related to basic necessities. The Center had 12,282 cases reported and 11,344 received from May 2006 to December 2015, of which 2,499 (41.42%) were directly investigated and 4,121 were transferred. It has installed video investigation systems in 21 correctional facilities as of 31 December 2015 and plans to set up more to facilitate direct investigations.

16. The NHRCK is a representative organization that has the authority to investigate cases that fall outside the jurisdiction of the Hotline Center. Refer to Paragraphs 142-145 of this report.

17. Regarding the 42 cases of remedy in 2007 and 81 in 2008,[3] the details of the remedies are as follows: in 2007, there were 11 cases of medical treatment, 6 cases of change of detention location, 1 case of suspension of unfair administrative measures, 9 cases of personnel measures, and 15 cases of other measures; in 2008, there were 15 cases of medical treatment, 9 cases of change of detention location, 8 cases of settlement of disputes among inmates, 6 cases of suspension of unfair administrative measures, 4 cases of personnel measures, 4 cases of counseling, 4 cases of improvement of facilities and equipment, 3 cases of prompt immigration relief, and 28 cases of other measures (see table 2).

Reply to the issues raised in Paragraph 5

Legal safeguards for persons under arrest or detention

18. The information on the duties to inform a person of the Miranda Rule and to notify his/her legal counsel or family member at the time of arrest or detention is as described in the second report (CAT/C/53/Add.2 Paras. 90, 118).

19. A suspect under arrest or detention may request to the head of a prison or detention center that a legal counsel designated by the suspect be appointed. Upon receiving such request, the head of the prison, etc., shall immediately notify the legal counsel designated by the suspect of such fact (*Criminal Procedure Act* Arts. 200-6, 209, 213-2, 90).

20. The *Criminal Procedure Act* guarantees the right of a suspect under arrest or detention to have an interview and to communicate with a legal counsel or any other persons such as family members. A legal counsel may have an interview with a suspect placed under physical restraint, may deliver or receive any documents or objects, and may have any doctor examine and treat the suspect (Art. 34). A suspect may, insofar as the laws permit, have an interview with any other persons, deliver or receive documents or objects, and receive medical examination and treatment from a doctor (Arts. 200-6, 209, 213-2, 89). The right to have an interview and to communicate with any other persons, unlike that with a legal counsel, may be restricted if there are reasonable grounds to assume that a suspect may escape or destroy evidence (Arts. 200-6, 209, the main clause of Art. 91). However, even in such cases, the receipt and delivery of clothing, food, or medical supplies shall not be forbidden nor shall they be seized (proviso to Art. 91). Particularly, under the *National Intelligence Service Act*, any National Intelligence Service personnel who infringes on a suspect's right to have an interview and to communicate with a legal counsel or any other persons shall be imprisoned for not more than one year or fined not exceeding KRW 10 million (Art. 19 Para. 2).

21. Prosecutors shall inspect arrest or detention places in police stations at least once every month in order to prevent human rights violations such as illegal confinement and torture (*Criminal Procedure Act* Art. 198-2 Para. 1). A total of 2,971 inspections were conducted in 2006, 2,839 in 2007, 2,996 in 2008, 3,112 in 2009, 3,161 in 2010, 3,065 in 2011, 3,017 in 2012, 3,199 in 2013, 3,256 in 2014, and 3,193 in 2015.

22. The *Criminal Procedure Act* was amended on 19 July 2006 to expand the scope of cases in which public defenders shall be appointed. This amendment strengthens the

[3] It appears that "42 cases of remedy in 2007 and 81 in 2008" were mistakenly reported as "42 in 2008 and 82 in 2009."

guarantee of the rights of suspects and defendants to assistance by legal counsel. If a defendant upon detention (Art. 33 Para. 1 (1)) or a suspect under examination by a judge prior to issuance of a detention warrant (Art. 201-2 Para. 8) does not have any legal counsel, the court is required to appoint a legal counsel *ex officio*.

23. Following Paragraph 9 of the Committee's previous recommendations (CAT/C/KOR/CO/2), the *Criminal Procedure Act* was amended on 1 June 2007 to explicitly provide for the participation of a legal counsel in suspect interrogation, which was previously allowed in accordance with the internal guidelines of the Supreme Prosecutors' Office and the National Police Agency. Details on the participation of a legal counsel in suspect interrogation and the grounds for its restriction are as explained in the additional State party's follow-up report submitted after the review of the Second Periodic Report (CAT/C/KOR/CO/2/Add.2 Paras. 15-17). In principle, a legal counsel who participates in suspect interrogation may state his/her opinion after the interrogation, but he/she may raise an objection to any unfair investigation method, even during the interrogation (Art. 243-2 Para. 3). Moreover, a person dissatisfied with the investigation agency's disposition concerning the participation of a legal counsel may file a petition for cancellation of or alteration to such disposition with the court (Art. 417). In practice, legal counsel's requests for participating in suspect interrogations are mostly granted. However, the number of and the grounds for the restrictions on legal counsel's participation and the complaints or allegations of abusive measures committed during the suspension of such participation are not separately managed.

24. The Supreme Court ruled that it is unacceptable to order, without reasonable grounds, a legal counsel to sit far away from a suspect during interrogation and to restrict his/her participation for disobeying the order (Supreme Court Ruling 2008Mo793).

25. Details of the examination of a suspect before detention are as described in the first and the second reports (CAT/C/32/Add.1 Para. 83; CAT/C/53/Add.2 Paras. 22-25). The 2007 amendment of the *Criminal Procedure Act* renders the examination of a suspect before detention mandatory so as to curb any torture or ill-treatment by investigators, by ensuring a suspect's right to have access to a judge.

26. Details of a review on the legality of arrest or detention are as described in the first report (CAT/C/32/Add.1 Para. 82). Before the 2007 amendment, only a suspect who had been arrested or detained "under an arrest or detention warrant" was eligible to request a review on the legality of arrest or detention. The 2007 amendment allows flagrant offenders and persons under urgent arrest to also request such review (Art. 214-2 Para. 1). The amendment establishes a provision that a prosecutor or judicial police officer who arrested or detained a suspect shall notify the suspect, etc., of his/her right to request a review on the legality of arrest or detention in order to facilitate the use of such review (Para. 2). Moreover, the amendment specifically limits the timeframe for undertaking a review on the legality of arrest or detention from "without delay" to "within 48 hours of the receipt of such request" (Para. 4).

Registration of arrest or detention cases

27. Persons under arrest or detention are officially registered with the Korea Information System of Criminal-Justice Service (KICS). Before the launch of KICS, arrest or detention cases were managed separately by the police and the prosecutors' offices respectively. However, comprehensive management of criminal justice information was made possible with the introduction of KICS in July 2010. The occurrence and development of all criminal cases are entered into KICS, which is shared by the police, the prosecutors' offices, and the courts. The suspect's personal information, the time and place of arrest or detention, the summary of charge, and the affiliation, position, name of the officer in charge

are all entered into the system immediately after arrest or detention. The system is also regularly inspected to prevent unrecorded cases.

Reply to the issues raised in Paragraph 6

28. The guarantee of judges' terms of office and independent status is as described in the third ICCPR report (CCPR/C/KOR/2005/3 Paras. 232-233).

29. With regard to the reappointment deliberation system for judges, under the amendment of the *Court Organization Act* on 18 July 2011, the Judges Personnel Committee was changed from an advisory committee to the Chief Justice to a deliberation committee that examines the reappointment of judges. Before the amendment, the Chief Justice reappointed judges with the consent of the Council of Supreme Court Justices. After the amendment, the Judges Personnel Committee deliberates on reappointment before the Chief Justice orders it with the consent of the Council of Supreme Court Justices (Art. 45-2 Para. 1). Moreover, the 2011 amendment prescribes that members other than judges shall be included in the Judges Personnel Committee to enhance fairness and reliability (Art. 25-2 Para. 4). The *Judges' Personnel Affairs Regulation* (Supreme Court Regulations), amended on 11 September 2012, prescribes that the reappointment deliberation shall not undermine the judges' independence (Art. 15-2).

30. The *Act on the Disciplinary Measures against Judges*, amended on 27 October 2006, requires the inclusion of members other than judges in the Judges Disciplinary Committee to enhance the fairness and reliability of disciplinary decisions (Art. 5 Para. 1).

Reply to the issues raised in Paragraph 7

31. The conditions for urgent arrest are as explained in the first report (CAT/C/32/Add.1 Paras. 80-81). The system mentioned in Paragraphs 18-27 of this report, which was designed to protect the rights of persons under arrest or detention, also applies to persons under urgent arrest.

32. The *Criminal Procedure Act* prescribes that a prosecutor or judicial police officer, after putting a suspect under urgent arrest, shall prepare a document stating the summary of charge, the grounds for urgent arrest, etc., to prevent the abuse of urgent arrest (Art. 200-3 Paras. 3, 4). A judicial police officer shall immediately obtain the approval of a prosecutor in case of an urgent arrest (Para. 2). In practice, a judicial police officer obtains the approval from a prosecutor of a competent district prosecutors' office within 12 hours from the time of the urgent arrest. Moreover, if a detention warrant is not requested or issued, a suspect shall be released and he/she shall not be rearrested for the same criminal facts without a warrant (Art. 200-4 Para. 3).

33. Prior to the 2007 amendment of the *Criminal Procedure Act*, if a prosecutor or judicial police officer intended to detain a suspect under urgent arrest, the prosecutor had to request a detention warrant to a competent district court judge "within 48 hours from the time of arrest." Currently, the 2007 amendment prescribes that a prosecutor is required to request a detention warrant "without delay," even within 48 hours from the time of arrest (Art. 200-4 Para. 1) in order to make the prosecutor decide whether to request such warrant more promptly.

34. The 2007 amendment also requires a prosecutor, when releasing a suspect whom he/she put under urgent arrest without requesting a detention warrant, to notify the court, in writing, of such arrest and release within 30 days of the release. The notification shall contain the suspect's personal information, the time, place, and reason of the urgent arrest and the subsequent release, and the name of the prosecutor or judicial police officer in charge (Art. 200-4 Para. 4). In addition, if a judicial police officer releases a suspect under

urgent arrest without applying for a detention warrant to a prosecutor, he/she shall immediately report to the prosecutor (Para. 6).

35. The actual number of persons put under urgent arrest sharply decreased since the 2007 amendment: there were 25,432 persons in 2007, 16,764 in 2008, 17,773 in 2009, 11,719 in 2010, 9,417 in 2011, 9,252 in 2012, 9,761 in 2013, 9,465 in 2014, and 10,628 in 2015. By 2015, the number fell by 58.2% compared to that of 2007. The decrease is mainly attributable to the Government's efforts to strictly regulate the use of urgent arrest procedures and to prevent abuse thereof, following Paragraph 11 of the Committee's previous recommendations (CAT/C/KOR/CO/2).

Reply to the issues raised in Paragraph 8

36. Non-admissibility of confessions or statements obtained as a result of torture is as described in the first and the second reports (CAT/C/32/Add.1 Paras. 205-206, 208, 210; CAT/C/53/Add.2 Paras. 91-92). Such confessions or statements are inadmissible regardless of defendants' consent.

37. In order to enhance the legitimacy of the evidence-collecting procedures, the amendment of the *Criminal Procedure Act* on 1 June 2007 provides for the Exclusionary Rule, which states that any evidence obtained in violation of due process of law shall not be admissible (Art. 308-2).

38. Relevant judgments are as follows:

(a) The Supreme Court ruled that if there is an argument as to whether a statement was made voluntarily, it is not the defendant who shall prove the reasonable and specific facts to raise doubts about the voluntariness of the statement, but rather the prosecutor who shall prove the facts to eliminate any doubts about it. If the prosecutor fails to do so, the statement shall not be admissible (2004Do7900);

(b) The Supreme Court ruled that, in principle, not only the evidence collected by an investigation agency without following procedural provisions, but also the secondary evidence obtained based on such evidence shall not be admissible as evidence of guilt (2007Do3061). The Supreme Court also ruled that a confession obtained based on illegally collected evidence shall not be admissible (2011Do10508).

39. Under the *Constitution* and the *Criminal Procedure Act*, in a case where a confession is the only evidence against a defendant in a formal trial, the confession shall not be admitted as evidence of guilt as described in the first report (CAT/C/32/Add.1 Para. 209). This also applies to the *National Security Act* violations. From 2006 to 2015, there was no identified case of a suspect's right to remain silent being restricted or a confession being coerced during investigations of the *National Security Act* violations. Nor was there a reported conviction resulting from cruel acts such as torture by investigators.

40. No amendment bill vis-à-vis the *Security Surveillance Act* has been proposed to the National Assembly since 2006. The Act is enforced at the minimum necessary extent according to the deliberations of the Security Surveillance Committee, which includes external members, as described in the second Universal Periodic Review (UPR) report (A/HRC/WG.6/14/KOR/1 Para. 73).

Reply to the issues raised in Paragraph 9

Punishment for marital rape

41. Previously, the *Criminal Act* stipulated the victim of rape as "woman," but not excluded "spouse" from the scope of victim. In practice, the Supreme Court ruled that a husband who forcibly had sexual intercourse with his wife after suppressing her resistance

with threats and violence was found guilty of rape (2012Do14788). In this regard, the series of recommendations made by human rights treaty bodies to stipulate marital rape as a criminal offense need to be reconsidered.[4] Meanwhile, the *Criminal Act* was amended on 18 December 2012 to define the victim of sexual offense such as rape from "woman" to "person."

Handling cases of domestic or sexual violence

42. While the Government has made efforts to strictly punish domestic violence offenders, it has enabled suspension of indictments on the condition of receiving counseling, handled domestic violence cases as "family protection cases," and strengthened counseling and treatment programs for perpetrators in deference to victims' opinions. For "family protection cases," rather than general criminal punishments, protective dispositions such as restraining order, order to offer social services or to attend lectures, entrustment of the counseling, etc., are imposed upon perpetrators.

43. From 2006 to 2015, 150,758 domestic violence offenders were received, among whom 18,076 were prosecuted, 79,090 were not prosecuted, and 50,895 were forwarded to the Family Court, etc., as family protection cases. Moreover, out of the 79,090 persons who were not prosecuted, 52,014 persons received non-prosecution disposition due to no state authority to prosecute (see table 3). The reason why many domestic violence cases resulted in non-prosecution disposition (especially no state authority to prosecute) is that victims often do not want perpetrators to be punished, unless their marriages have completely failed. They mostly prefer admonitions and preventive measures against the recurrence of domestic violence to punishments of the perpetrators. In this sense, most domestic violence cases can be effectively handled through the family protection procedure that offers treatment to perpetrators and improves family relationships.

44. Under the Guideline on the Suspension of Indictment of Domestic Violence Offenders on the Condition of Receiving Counseling, established in June 2008, indictments of minor domestic violence cases are suspended on the condition that perpetrators complete counseling programs. 448 persons received suspension of indictment on the condition of receiving counseling from June to December 2008, 379 in 2009, 216 in 2010, 173 in 2011, 191 in 2012, 499 in 2013, 719 in 2014, and 851 in 2015.

45. Since August 2004, the Domestic Violence Counseling Center, etc., have promoted the prevention of crime recurrence by implementing behavioral management and treatment programs for domestic violence perpetrators, offered to those who received suspension of indictment on the condition of receiving counseling or protective dispositions (e.g. an order to attend lectures or entrustment of counseling) by the court. A survey in 2014 indicated that 95.7% of the perpetrators and 91.0% of their spouses were satisfied with the programs. Moreover, since 2006, similar programs have been offered to perpetrators of sexual violence (see table 4).

46. The court of first instance held trials for 67,923 sexual violence offenders between 2006 and 2015. Out of 67,923 persons, 9 persons were sentenced to capital punishment, 20,410 were sentenced to imprisonment, 19,852 were sentenced to suspension of execution,

[4] See CAT/C/KOR/CO/2 Para. 17, CCPR/C/KOR/CO/3 Para. 11, CEDAW/C/KOR/CO/6 Para. 18, CEDAW/C/KOR/CO/7 Para. 21, A/HRC/8/40 Para. 64 (14).

14,117 were sentenced to pecuniary punishment, 811 were sentenced to suspension of sentence, 1,458 were found not guilty, and 11,266 received other decisions[5] (see table 5).

Protection and support systems for victims of domestic or sexual violence

47. In order to assist female victims of violence in overcoming their sufferings, the Government has established comprehensive protection and support systems for victims of domestic or sexual violence covering from the occurrence of the crime to the eventual self-reliance.

48. The Emergency Call Center (Hotline #1366) provides victims with services such as year-round 24-hour counseling, dispatch of personnel to site, and referral to relevant organizations. As of 31 December 2015, 18 centers are in operation nationwide (see table 6).

49. As of 31 December 2015, there are 203 domestic violence counseling centers and 70 protection facilities for domestic violence victims, capable of accommodating up to a total of 1,139 persons (see table 7). There are 161 sexual violence counseling centers, out of which 23 are for persons with disabilities, and 30 protection facilities for sexual violence victims that can accommodate up to a total of 346 persons, out of which 8 are for persons with disabilities and 4 are special support shelters for minor victims of intra-familial sexual abuse (see table 8).

50. Since 2008, the Group Home Project, a housing support project for female victims of violence, has provided public rental houses so that female victims of domestic or sexual violence can live with their families. As of 30 June 2015, 246 rental houses are in operation, accommodating 590 residents. Moreover, as of 2015, 20 family protection facilities are in operation for domestic violence victims with sons of age 10 or older.

51. Integrated support centers, called "The Sunflower Center," provide a variety of services for female or child victims of violence from the outset of the violence in a one-stop manner. The centers are located in or near hospitals in partnership with the Government, local governments, district police agencies, and medical institutions. These centers are categorized as 3 types — Centers for Children, Centers for Crisis Support, and Centers for Integrated Support. As of 31 December 2015, 36 of these centers are in operation.

52. The Sunflower Center (for Children) provides children and juvenile victims with medical treatment, specialized counseling for victims as well as their families, diagnoses by clinical psychologists, legal aid for litigation by advisory lawyers, and other services, in a single location (see table 9). The Sunflower Center (for Crisis Support) provides 24-hour counseling and medical treatment. In order to prevent any secondary damage during investigations, the Center videotapes victims' statements, collects evidence, and assigns female police officers to prepare protocols of victims' statements (see table 10). The Sunflower Center (for Integrated Support), combining the strengths of the other two centers, provides sustainable and specialized treatment as well as investigative functions. The Center provides professional counseling, medical treatment, and legal counseling, and also assigns female police officers to prepare protocols of victims' statements, in a one-stop manner, 24 hours a day, 365 days a year (see table 11).

53. Since 2004, the Government has provided treatment and recovery programs, medical expense subsidies, and job training sessions through counseling centers and protection facilities for victims of domestic or sexual violence to support their mental and physical

[5] Other decisions may refer to remission of penalty, acquittal of a public action, judgment dismissing public prosecution, ruling dismissing public prosecution, ruling of transfer to the Juvenile Department, etc.

recovery (see tables 12 and 13). In particular, the medical service application process was minimized in 2012 in order to improve the support system for sexual violence victims. After the reform, the consideration by local governments which was required for applications of KRW 5 million and above was eliminated and regardless of victims' age, the range of beneficiaries of medical subsidies was broadened to cover psychotherapy expenses for family members of the victims.

54. The Crime Victim Support Center, in connection with the prosecutors' offices at all levels, provides professional counseling for victims of domestic or sexual violence and accompaniment to the court for those concerned of retaliation or suffering from anxiety. Victims may also stay at the Smile Center to receive psychological treatment, if necessary. Refer to Paragraph 148 of this report for the Smile Center.

55. Since 2003, the Government has invested state finance to make agreements with four legal aid organizations — the Korea Legal Aid Corporation, the Korea Legal Aid Center for Family Relations, the Korean Bar Association, and the Korea Rape Crisis Center — in order to protect the rights and interests of female, child, or juvenile victims of domestic or sexual violence (see table 14).

56. In regard to support for sexual violence victims, the state-appointed attorney for crime victims has provided child or juvenile victims under the age of 19 with legal assistance of a case from the early stages of incident to investigations and trials since 2012. The eligibility for the system was further expanded to include all sexual violence victims in 2013 and to include child abuse victims in 2014. Moreover, the Statement Assistant System was introduced in 2013, designed to prevent secondary damage of child victims of sexual violence by means of the statement assistant's participation in investigation or trial and mediation or assistance of the victims' communication. In 2014, the scope of recipient of Statement Assistant System was expanded to child abuse victims.

Awareness-raising and training activities on domestic and sexual violence

57. In December 2008, the Human Rights Bureau of the MOJ developed educational materials tailored to the tasks of each sector such as prosecution, correction, juvenile protection, and immigration control, which were then distributed to front-line organizations to be used for their own human rights education in 2009. Educational materials titled "Prosecution and Human Rights" presented guidelines for investigating and protecting sexual offense victims; "Correction and Human Rights" presented guidelines for handling female inmates; "Juvenile Protection and Human Rights" presented guidelines for separating protected juveniles on the basis of gender and assigning female officials for physical check-ups on female juveniles; and "Immigration Control and Human Rights" presented guidelines for crackdowns on female foreigners.

58. In addition, external experts have visited detention or protective facilities to provide human rights education since 2009. The lectures at the prosecutors' offices provide information about human rights protection of female or child victims of sexual offenses during investigations. The lectures at the correctional facilities provide information about the prevention of sexual violence and sexual harassment within the facilities.

59. From 2009 to 2015, the Institute of Justice under the MOJ provided 486 prosecutors with lectures such as "Characteristics of Domestic Violence Based on Counseling Cases" and "Characteristics of Sexual Violence Victims Who Are Children or Persons with Disabilities and Investigation Approaches." From 2006 to 2015, the Institute also provided 388 prosecution investigators with lectures such as "Commentaries and Case Studies on Laws Concerning Domestic and Sexual Violence" and "Statements Made by Child Victims of Sexual Violence." From 2008 to 2015, 523 correctional officials were trained with "Techniques for Instructing Sexual Violence Offenders" while 538 protection officials were

trained with "Manual for Instructing and Supervising Sexual Violence Offenders." Moreover, 3,908 officials including prosecutors, prosecution investigators, correctional officials, and protection officials completed the year-round online course from 2010 to 2015.

60. The court provides training sessions for judges who are exclusively in charge of sexual violence cases and seminars for all judges in order to educate them on the issues of domestic and sexual violence. Judges can also share information and opinions on the issues through the court intranet.

61. In the police training institutions, judicial police officers who deal with sexual violence cases are provided with the education programs related with investigation procedure and support system for victims in order to improve awareness of sexual violence and to protect the victims.

62. The MND has appointed instructors to ensure the prevention of sexual violence within the military in accordance with the *Directive on Unit Management*. Education for sexual violence prevention is provided regularly and frequently. Intensive training is also carried out during a reinforcement period. Training for gender awareness is commissioned to outside organizations and customized for each rank. The Ministry of Gender Equality and Family regularly assesses the performance of the abovementioned training sessions. Moreover, pursuant to the *Directive on the Operation of the Gender Equality Counselor*, each unit assigns and operates Gender Equality Counselor to prevent sexual offenses.

63. Since 2011, the Ministry of Gender Equality and Family has carried out human rights education for investigators such as police officers, to ensure priority on the protection of victims in domestic violence cases. In 2011, the program was incorporated into the regular courses for prosecution investigators and police officers and 2,272 personnel were trained over 19 courses and 52 sessions. Expanded to police station trainings and meetings, the program saw a total of 11,779 personnel trained over 732 sessions by 2015. In 2014, the requirement for education was expanded to national institutions, local governments, public organizations, and schools to annually conduct at least one educational session on the prevention of domestic violence.

64. In September 2011, 25,000 copies of "Guidelines for Preventing Domestic Violence Cases" were produced and distributed to raise public awareness of the criminal nature of domestic violence, and a promotional video was aired via cable TV to increase public awareness of domestic violence against migrant women. In December 2011, a video titled "Power to Prevent Domestic Violence" was aired via cable and terrestrial TV. In 2012, in addition to the continuous video airing, 50,000 copies of "Guidelines for Preventing Domestic Violence and Victim Support" were distributed. Moreover, 25 November to 1 December was designated as Sexual Violence Eradication Week, during which the Government holds nationwide campaigns, symposiums, and events to prevent sexual violence, in cooperation with NGOs and relevant organizations. 22 February was designated as Eradication of Sexual Violence against Children Day. On this day, symposiums and events are held to raise public awareness on sexual violence against children, and educational videos and manuals are distributed to educate parents on the prevention of sexual violence against children. In 2015, 25 November to 1 December was designated as Domestic Violence Eradication Week.

65. In 2008, the NHRCK established a special taskforce against violence and sexual assault in the field of sports to receive petitions and carry out surveys, policy reviews, and human rights education. The NHRCK made an agreement with the Korean Olympic Committee on 14 March 2008 to develop human rights education programs for student athletes, coaches, and parents and conducted the programs with experts and star athletes. From 2008 to 2015, a total of 27,587 student athletes and others received this education.

Acts regarding the prohibition of sexual harassment in the workplace

66. There is currently no general provision for criminal punishment on sexual harassment in the workplace. However, the *Act on Equal Employment and Support for Work-Family Reconciliation* prohibits sexual harassment in the workplace by an employer, superior, or any other employee (Art. 12). A fine for negligence not exceeding KRW 10 million shall be imposed on an employer who commits sexual harassment (Art. 39 Para. 1). The Act also prescribes the duty of an employer to take disciplinary or other corresponding measures against the perpetrator in case of sexual harassment in the workplace (Art. 14 Para. 1) and prohibits any disadvantageous measure against an employee who has claimed damages (Para. 2). In case of violating aforementioned provisions, an employer shall be subjected to criminal punishment or a fine for negligence (Arts. 37 through 39). Moreover, the Act was amended on 21 December 2007 to include a new provision on an employer's obligation to protect employees from sexual harassment by the third parties such as customers (Art. 14-2).

67. The *National Human Rights Commission Act* stipulates that sexual harassment is a discriminatory act which violates the right to equality (Art. 2 (3)(d)). When the NHRCK investigates a petitioned case on sexual harassment and confirms that sexual harassment has indeed occurred, it recommends the perpetrator to receive special human rights education, pay compensation, or prevent recurrence. The NHRCK also recommends the head of the organization that the perpetrator is affiliated with to establish measures to prevent recurrence, if the organization's preventive measures or responses to the case are deemed inadequate.

68. When an employer commits sexual harassment, fails to take necessary measures against a perpetrator, or takes disadvantageous measures against an employee who claims damages, the employee may file a complaint or accusation against the employer before a competent district labor organization or petition the NHRCK.

Prevention and awareness-raising of sexual harassment in the workplace

69. The Government, local governments, public organizations, and companies, are obligated to provide education for the prevention of sexual harassment at least once a year. Particularly, public organizations offer education on relevant laws, handling procedures and standards of sexual harassment cases, counseling and remedy procedures for victims, and disciplinary measures against perpetrators. Educational materials continue to be developed and distributed. Special training is provided to supervisors of the organizations that lack sufficient preventive measures against sexual harassment. All of these efforts resulted in high implementation rates of sexual harassment prevention education at public organizations: 99.6% in 2012, 99.7% in 2013, and 99.6% in 2014. Moreover, for companies with less than 30 employees, the Government provides free lectures on the prevention of sexual harassment in the workplace to raise awareness of its illegality (see table 15).

70. The illegality of sexual harassment in the workplace has been continuously known to the public. In 2010 and 2011, the Government conducted a radio campaign, developed and used PR materials (workplaces and public transportation), and distributed leaflets (30,000 copies in 2011) to prevent sexual harassment in the workplace. In 2012, the Government developed and distributed promotional posters about sexual harassment counseling and reporting (10,000 copies) and sexual harassment prevention leaflets (100,000 copies), and produced a video clip about sexual harassment prevention and distributed 10,000 copies of DVDs. In 2013, the Government translated leaflets about sexual harassment prevention into five foreign languages (Vietnamese, Thai, Chinese, Indonesian and Uzbek) and distributed them to 20,000 workplaces employing a large number of foreign workers. In 2014, the Government distributed 20,000 English copies of the leaflet, and produced "Guidebook on Prevention of Sexual Harassment for Employers"

and distributed 20,000 copies of it to small-sized companies. Also a web comic about preventing sexual harassment in the workplace, which was available on portal sites, was produced and advertised using an app banner. In 2015, educational videos on prevention of sexual harassment were produced and distributed to companies in order to raise public awareness and prevent sexual harassment in the workplace.

71. The NHRCK distributed posters, leaflets, and "Compilations of Recommendations of Correction for Sexual Harassment (Issue No. 1-6)" to promote public awareness of sexual harassment. Until 2015, the NHRCK provided special human rights education for 140 perpetrators of sexual harassment petition cases and, at the request of some training institutes, offered case study sessions on sexual harassment.

Reply to the issues raised in Paragraph 10

Handling cases of human trafficking

72. From 2006 to 2015, the court of first instance held trials for 2,260 persons on charges of human trafficking. Out of 2,260 persons, one was sentenced to capital punishment, 630 were sentenced to imprisonment, 880 were sentenced to suspension of execution, 394 were sentenced to pecuniary punishment, 20 were sentenced to suspension of sentence, 44 were found not guilty, and 291 received other decisions[5] (see table 16). The list of crimes is as follows: crimes under the *Criminal Act* (abduction or luring, human trafficking, etc.); crimes under the *Act on the Punishment of Acts of Arranging Sex Trafficking* (forcing sex trafficking); crimes under the *Act on the Protection of Children and Juveniles from Sexual Abuse* (coercive conduct, child or juvenile trafficking); and crimes under the *Act on the Aggravated Punishment, etc. of Specific Crimes* (abduction or luring for profit-making, etc.). Refer to Paragraph 81 of this report for the crimes of human trafficking in the *Criminal Act*.

Support for foreign female victims of human trafficking

73. One support facility for foreign women was established in 2009 to provide targeted support for foreign female victims of sex trafficking including human trafficking victims for sex trafficking purposes. Details of the support are as described in the 15th and 16th International Convention on the Elimination of All Forms of Racial Discrimination (CERD) reports (CERD/C/KOR/15-16 Para. 100). In principle, foreign female victims can stay at the facility for up to three months, but the period may be extended while they are under investigations as sex trafficking victims. Fifty-three foreign women were cared for by this support facility in 2010, 39 in 2011, 69 in 2012, 36 in 2013, 58 in 2014, and 77 in 2015.

74. The *Act on the Punishment of Acts of Arranging Sex Trafficking* categorizes victims of human trafficking for sex trafficking purposes as sex trafficking victims (Art. 2 Para. 1 (4)(d)) and prescribes that a sex trafficking victim shall not be punished for the act of sex trafficking (Art. 6 Para. 1). The Act also prescribes special cases of undocumented foreign female victims of sex trafficking (Art. 11). When a foreign woman reports crimes under the Act or is investigated as a sex trafficking victim, any order for her deportation or detention shall not be executed until it is decided whether a perpetrator shall be prosecuted or not (Para. 1). After instituting a public prosecution against a case, a prosecutor may request a suspension of deportation order or temporary release from detention to the head of an immigration office, taking into account the necessity for testimony or compensation (Para. 2).

[5] Refer to footnote No. 5

75. The Government grants G-1 visas for humanitarian reasons to foreign female victims of human trafficking if they need to stay in the ROK for damage relief process. The Government also allows them to legally extend their stay until the process is completed. In particular, since May 2007, the Government has allowed employment in the ROK for victims within their stay period if desired since the damage relief process lasts for a long period of time. As of 31 December 2015, 19 sex trafficking victims are granted G-1 visas, 10 of whom are now working with E-7 visas. The Government plans to strengthen employment support for foreign female victims of sex trafficking by forming partnerships with relevant organizations that support employment for women.

76. The Government also actively identifies human trafficking victims by reviewing the cases reported to the counseling centers within immigration offices and the 1.345 Immigration Contact Center in order to protect and support them.

Efforts to prevent human trafficking

77. In 2015, for fifteen consecutive years, the ROK has been maintaining the highest Tier 1 ranking in the annual Trafficking in Persons Report of the United States Department of State. In order to strengthen international cooperation for the prevention of human trafficking, the Government will participate in the Meeting of Parties to the *United Nations Convention against Transnational Organized Crime*. The Government has been actively participating in the ASEAN+3 (Korea, China, Japan) Ministerial Meeting on Transnational Crime annually in order to strengthen regional cooperation for the prevention of transnational crimes such as human trafficking in East Asia. Moreover, in June 2011, the Supreme Prosecutors' Office hosted the 16th Annual Assembly of International Association of Prosecutors and the 4th World Summit of Prosecutors General, Attorneys General, and Chief Prosecutors in Seoul. At these events, participants discussed ways to enhance international cooperation to combat transnational crimes.

78. Since 2006, relevant ministries including the MOJ, the Ministry of Foreign Affairs, the Ministry of Employment and Labor, the Ministry of Gender Equality and Family, and embassies concerned have held the Countermeasure Meeting of Agencies Concerned for Prevention of Human Trafficking once or twice a year.

79. The *Marriage Brokers Business Management Act* was enacted on 14 December 2007 to prevent international marriages suspected of human trafficking. The amendment on 17 May 2010 requires the exchange of personal information between parties (Art. 10-2). The amendment on 1 February 2012 strengthens the criteria for the registration of international marriage brokerage businesses (Arts. 4, 24-3) and prohibits the introduction of persons under the age of 18 and the arrangement of group meetings (Art. 12-2). Moreover, the Government has promoted cooperation with countries whose citizens are frequent parties to international marriages with Korean nationals: it established a consultative body comprised of ambassadors of major countries sent to the ROK; assigned an official responsible for international marriage immigration to Vietnam; and signed an MOU with Vietnam in 2010 and with the Philippines in 2011.

80. Regarding the delay in payment of wages and violence against Indonesian seafarers on Korean vessel fishing off the waters of New Zealand, the Government established a joint investigation team in May 2012 and conducted a comprehensive investigation by visiting New Zealand, etc. As a result, five Koreans were referred to the prosecutors' office under the suspicion of assaulting foreign sailors. It was found that wages were not paid in its entirety and the owner was thus ordered to pay the proper amount under the contract. The Comprehensive Measures for Improving Labor Conditions and the Human Rights of Foreign Sailors was established based on the abovementioned investigation and confirmed at the Meeting of Cabinet Ministers to Coordinate Policies of Government Ministries and Agencies presided over by the Prime Minister in September 2012. The suspects of the

aforementioned case denied the charges of assault, meanwhile the victims returned to Indonesia. Against this backdrop, the Government requested mutual assistance in criminal matters to the Indonesian judicial authority to clarify the whereabouts of the victims and the prosecutor disposed stay of prosecution for a limited period.

81. To ratify the *United Nations Convention against Transnational Organized Crime and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, the Government amended the *Criminal Act* and newly established crimes of human trafficking on 5 April 2013. A person who buys or sells another shall be punished by imprisonment for not more than seven years. A person who buys or sells another for the purpose of engaging in an indecent act, sexual intercourse, marriage, or for gain, shall be punished by imprisonment for at least one year up to ten years. A person who buys or sells another for the purpose of labor exploitation, sex trafficking, sexual exploitation, or the acquisition of body organs shall be punished by imprisonment for at least two years up to fifteen years (Art. 289). The aforementioned Convention and Protocol were finally ratified on 5 November 2015 by the Government and came into effect on 5 December 2015.

Article 3

Reply to the issues raised in Paragraph 11

82. The *Immigration Act* (Art. 64 Para. 3), in conformity with the principle of non-refoulement, provided that refugees shall not be repatriated to countries where expulsions or returns are prohibited under Article 33 Paragraph 1 of the *Convention Relating to the Status of Refugees* (hereinafter referred to as "Refugee Convention"), and by enacting the *Refugee Act* which established a provision of the status and treatment for refugees on 10 February 2012, the principle of non-refoulement and its subjects were prescribed explicitly in the *Refugee Act*. The *Refugee Act* stipulates that a person unrecognized as a refugee may obtain permission to stay on humanitarian grounds if there are reasonable grounds to believe that his/her life or personal liberty may be egregiously violated by torture or other inhuman treatment or punishment or other circumstances (Art. 2 (3)), and it also provides that recognized refugees, humanitarian status holders and refugee status applicants shall not, in accordance with Article 33 of the Refugee Convention and Article 3 of the Convention, be forcibly repatriated against their will (Art. 3). In practice, if an applicant, during a refugee status determination, asserts that repatriation may put him/her in danger of being subjected to torture, thorough investigations and reviews are carried out on whether such danger exists objectively.

83. Refugee workshops are delivered to Refugee Status Determination (RSD) officers in partnership with the Office of the United Nations High Commissioner for Refugees (UNHCR) and relevant organizations at least once a year. The Institute of Justice is now operating six training courses such as "Practical Training on RSD Procedures" and the online education program about "the *Refugee Act* and Refugee Policy" for immigration officials including RSD officers. In addition, at least once a year, RSD officers participate in the Course on International Refugee Law at the International Institute of Humanitarian Law in San Remo.

Reply to the issues raised in Paragraph 12

84. Statistics on cases between 2006 and 2015 in which persons were not repatriated due to the risk of being subjected to torture are not managed separately. There has been no case of refusing criminal extradition on this ground. The Government has granted humanitarian status to persons whose life or personal liberty may be egregiously violated by torture or other inhuman treatment or punishment, even if they are not recognized as refugees. From

2006 to 2015, 883 persons were granted humanitarian status (see table 17). However, specific statistics on humanitarian status granted due to the danger of torture are not managed separately.

85. Under the extradition treaties that the ROK has concluded with other countries, if a country that has received a criminal is to re-extradite that criminal to a third country, it must obtain an approval from the country that originally extradited the criminal. Therefore, the ROK has a mechanism to prevent a country to which it extradites a criminal from re-extraditing that criminal to a third country without the consent of the ROK. There has been no confirmed case in which a criminal extradited from the ROK was re-extradited to a third country.

Articles 5, 7 and 8

Reply to the issues raised in Paragraph 13

86. There has been no reported or confirmed case between 2006 and 2015 in which the Government rejected any request for extradition and started prosecution proceedings on an individual suspected of having committed torture.

Reply to the issues raised in Paragraph 14

87. If a citizen of the ROK committed, or is the victim of, crimes under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the offender can be punished according to the *Criminal Act*, particularly through the nationality principle (Art. 3) and protective principle (Art. 6). The Government amended the *Criminal Act* on 5 April 2013 in order to ensure the jurisdiction of the criminal trial over a non-Korean who committed a crime outside the territory of the ROK, if such crime violates universal legal interests, such as kidnapping or luring minors (Art. 296-2).

Article 10

Reply to the issues raised in Paragraph 15

Human rights education for legal affairs officials

88. Since the establishment of the Human Rights Bureau in the MOJ in May 2006, various human rights education programs have been developed; human rights education for legal affairs officials has been expanded in order to prevent torture and ill-treatment.

89. Human Rights Sensitivity Training for legal affairs officials (including correctional officials) develops a sense of empathy, ability to understand, and communication skills between inmates and officials, requiring active involvement of the participants. From 2008 to 2009, 903 officials were trained with 30 sessions by a special external human rights organization; from 2010 to 2015, internal human rights lecturers educated 3,436 officials through 135 sessions. From 2008 to 2013, 91 internal human rights lecturers were trained. A group of external human rights lecturers (65 as of 31 December 2015), comprised of professors, lawyers, and human rights experts, was organized and human rights education was delivered to 10,520 officials through 217 sessions from 2009 to 2015. From September 2012 to 2015, 74 sessions of human rights education were conducted for 546 trainees including prosecutors.

90. In December 2008, human rights educational materials with information on international human rights treaties and implementation thereof were developed specifically

for each area of legal affairs administration. The materials were distributed to the Institute of Justice and relevant organizations, internal and external human rights lecturers, and law school professors. In addition, human rights documentary films were produced, distributed, and featured at the relevant organizations to develop human rights capabilities of law enforcement officials. These documentaries covered the theme of corrections in 2008, prosecution in 2009, juvenile protection and immigration in 2010, and probation in 2012.

Human rights education for military personnel

91. The *Directive on Military Human Rights Affairs* was issued to provide human rights training tailored to each area of human rights related duties for commissioned and noncommissioned officers such as military investigators, corrections personnel, and judicial officers.

92. Human rights education programs for officers are as follows: lectures such as "Protection of Human Rights in the Course of Military Investigation" for military investigators; "Human Rights Situation of the Military Correction Area and Challenges" for military corrections personnel; "Domestic Laws Related to Human Rights" for military judicial officers; "Human Rights and the Military" for human rights instructors; "Human Rights of Patients in General" for military medical personnel; and "Sexual Minority and Human Rights in the Military" for military counselors including the Gender Equality Counselor and the Professional Counselor for Barrack Life. From 2008 to 2015, a total of 2,269 officers completed these programs (see table 18).

93. Service members and civilian workers also receive human rights education under the guidance of the chiefs of staff and commanders of units in accordance with the *Directive on Military Human Rights Affairs*. Moreover, online education is provided for commissioned and noncommissioned officers as well as civilian workers throughout the year. Furthermore, professors and specialists of the NHRCK are invited to provide human rights lecture tours for officers in major units.

Human rights education for police officers

94. The National Police Agency set up the Human Rights Protection Division in 2005 and established the Basic Plan for Enhancement of Human Rights Education. It has raised human rights awareness among police officers through human rights education in police training institutions.

95. From 2006 to 2014, the Police Training Institute trained a total of 1,802 officers with 64 sessions through "Human Rights Lecturers Training Course." The Institute newly established the courses such as "Improvement of Police Human Rights Sensitivity Course" and "Police Activities and Human Rights" in 2015, and trained a total of 100 trainees for 2 sessions, respectively. Since 2012, more than two hours of human rights education has been added mandatorily in more than two weeks of On-the-Job-Training (OJT) programs in police training institutions such as the Korean National Police University. Additionally, in 2015, 33 internal human rights lecturers were appointed; they provided a total of 26,354 police officers with 332 training sessions about human rights violation cases. All police officers should be trained with more than two hours of human rights education every quarter (online lecture, OJT) to improve awareness of human rights and prevent human rights infringement.

96. Since 2011, one or two sessions of human rights education workshops have been conducted annually for combat and conscripted police officers in leadership positions. Also, "Coaching School for Combat and Conscripted Police Officers in Leadership Positions" was established in police training institutions. Additionally, human rights counselors and

outside professors provide human rights education to newly deployed police officers, and frequent human rights education is proceeded after the deployment.

Human rights education by the NHRCK

97. The NHRCK trained a total of 1,294 trainees including battalion commanders, military human rights instructors, military corrections personnel, military investigators, and military judicial officers from 2006 to 2014 with the military human rights education program. In 2009, the NHRCK organized the Military Human Rights Education Consultative Body with the Human Rights Officer of the MND and the Human Rights Divisions of the Army, Navy, and Air Force, and has held one or two meetings every year by 2015 in order to expand human rights education in the military and provide support and cooperation for human rights lectures.

98. In order to prevent human rights violations and discriminations, the NHRCK supports human rights education for police officers. After the beatings and deaths of combat and conscripted police officers, the NHRCK provided special human rights lectures for approximately 3,000 combat and conscripted police officers in leadership positions and 360 perpetrators, as part of the education course organized by the National Police Agency in 2011. In February 2011, the NHRCK provided human rights education to 52 senior superintendents at Korean National Police University. By December 2011, the NHRCK delivered a total of 89 human rights lectures in which 8,399 officers participated; 24 of them were provided in police training institutions such as Korean National Police University and Police Training Institute. Since 2013, the NHRCK has provided training for police officers every year through "Human Rights Lecturers Training Course."

Number of petitions filed against abuses committed by public officials

99. From 2010 to 2014, among the petitions filed in the NHRCK, petitions regarding violence, cruel acts and excessive use of protective equipment by public officials are as follows: 3,870 cases against police agencies, 2,103 cases against detention facilities, 262 cases against military, 123 cases against the prosecutors' offices, and 11 cases against immigration offices. The majority of petitions were filed against police agencies: the number of cases was 465 in 2010, 286 in 2011, 280 in 2012, 348 in 2013, and 347 in 2014.

Reply to the issues raised in Paragraph 16

100. The Government does not currently provide training programs for recognizing and treating injuries resulting from torture and ill-treatment. The NHRCK translated and published "Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (hereinafter referred to as "Istanbul Protocol") in 2008. It also translated and published the practical guidelines for the Istanbul Protocol in 2009, including "Legal Investigation on Charges of Torture (for lawyers)," "Psychological Evidence of Torture (for psychologists)," and "Examination of Torture Victims (for doctors)." Moreover, it published "2011 Report on the Current Situation of Human Rights of Torture Victims" which referred specifically to the Istanbul Protocol. These publications were distributed to NGOs, medical and legal organizations, and scholars.

101. In commemoration of the United Nations International Day in Support of Victims of Torture, the NHRCK invited the International Rehabilitation Council for Torture Victims in 2010 to "International Symposium on the Practical Application of Istanbul Protocol in Korea."

Reply to the issues raised in Paragraph 17

102. In order to prevent human trafficking for sex trafficking purposes, the Government has developed and distributed educational materials and trained lecturers to facilitate education on sex trafficking prevention. As of 31 December 2015, the Government has trained 325 lecturers for sex trafficking prevention education. Between 2008 and 2015, the Government trained approximately 2,600 officials responsible for sex trafficking prevention, including local government officials and police officers.

103. From 2008 to 2012, the illegality of sex trafficking was publicized through large electronic displays and advertisements on the subway. Since 2011, anti-sex trafficking campaign has been promoted annually, notifying the public on the illegality of sex trafficking and its infringement on human rights. In 2015, 19 to 25 September was designated as Sex Trafficking Eradication Week to raise awareness of sex trafficking and human trafficking for sex trafficking purposes and prevent any related crimes. Under the theme, diverse promotion activities such as celebration ceremony, campaigns, and promotion video clips have been performed during the week.

104. The Institute of Justice has provided the following training programs to prosecutors and prosecution investigators in order to enhance victim protection and agents' expertise. From 2006 to 2015, 388 prosecution investigators attended lectures such as "Laws Regarding the Punishment for Arranging Sex Trafficking." From 2009 to 2015, 143 prosecutors attended lectures such as "Five Years of the Implementation of the *Act on the Prevention of Sex Trafficking and Protection, etc. of Victims*: Achievements and Challenges," "Characteristics of Sex Trafficking Cases," and "Sex Trafficking and Women's Human Rights: Case Studies on Foreign and Migrant Women." The training courses received high participation and satisfaction ratings.

Article 11

Reply to the issues raised in Paragraph 18

Measures taken to improve conditions of detention

105. To promote inmates' human rights and their rights of health, the *Standard Rules for Facilities of the Ministry of Justice* (Directive of the MOJ) was amended twice on 29 September 2006 and 29 December 2014 to enlarge rooms and improve correctional facilities. The room for multiple inmates was expanded from 2.58 square meters per person to 3.4 square meters; the disciplinary room from 4.62 square meters per person to 5.4 square meters; and the solitary ward from 4.3 square meters per person to 6.3 square meters. Diverse purpose rooms such as family meeting rooms, waiting rooms for soon-to-be released inmates and newcomers, open meeting rooms, and multi-purpose rooms were newly established. Refer to Paragraph 120 of this report for the construction and relocation of correctional facilities to alleviate overcrowding.

106. Juveniles in protective facilities are detained in smaller groups and treated more individually. Those who fail to adjust to collective life are allowed to stay in a small group room or a single room.

107. The MND, reflecting the investigation results of the NHRCK, has continuously improved the conditions of detention centers and inmate management including hygiene, medical service, and natural lighting.

108. The National Police Agency has expanded human rights-friendly lockups. In accordance with the *Standard Rules for Lockup Design* (Established Rule of the National Police Agency), a lockup cell is at least 13.2 square meters, for a maximum number of five

detainees, and the area per person is 2.64 square meters. At least 3.3 square meters per person is normally provided. Since 2011, the Human Rights Protection Division of the National Police Agency has run a program titled "Lockup without Bars." As of 2015, 15 lockups without bars are in operation.

Closing substitute cells and improving conditions of detention

109. The Human Rights Bureau of the MOJ held the Consultative Meeting on the Improvement of Substitute Cells on 23 January 2007 to devise improvement strategies with relevant institutions including the National Police Agency. The meeting concluded with the decision to close down the substitute cells. If immediate closure was difficult, the cells were to be improved, for instance, by having female police officers interview female detainees and installing direct lighting and gym equipment.

110. Two substitute cells in Yeong-deok and Ui-sung, located within one hour from neighboring prisons, were closed down after detainees were transferred to the neighboring prisons. The substitute cell in Jeongeup was closed down in 2008. After the Young-wol Prison, the Hae-nam Prison, and the Mil-yang Detention Center were completed in 2009, the other three substitute cells in Young-wol, Hae-nam, and Mil-yang were shut down in 2010. In 2014, the Sangju Prison and the Jeongeup Prison were completed and the substitute cell in Sangju was shut down. As of 31 December 2015, there are four substitute cells remaining in Sok-cho, Young-dong, Nam-won, and Geo-chang that are scheduled to be closed once new correctional facilities are completed by 2020. As of 31 December 2015, the Geo-chang Detention Center is under construction.

111. In order to improve the detention conditions of the four substitute cells still in operation, female detainees have been counseled by female police officers and direct lighting was installed. Additionally, the unit cost of meal was also raised.

Number of persons held in Young-wol Prison, Hae-nam Prison, and Mil-yang Detention Center and substitute cells

112. The Young-wol Prison, the Hae-nam Prison, and the Mil-yang Detention Center were completed in 2009. As of 31 December 2015, the maximum capacity of the Young-wol Prison and the Hae-nam Prison are 400 and 410 respectively, but currently each holds 336 and 370 respectively. The Mil-yang Detention Center has a maximum capacity of 440 but currently holds 455 (see table 19). The number of persons held to maximum has slightly exceeded in the Mil-yang Detention Center and the other two did not reach the maximum number.

113. The number of detainees in substitute cells gradually decreased from 5,643 in 2006 to 5,439 in 2007 and 4,393 in 2008. Especially, after the new construction of aforementioned correctional facilities, the number of detainees rapidly decreased from 4,234 in 2009 to 3,041 in 2010, 1,917 in 2011, 1,980 in 2012, 1,915 in 2013, 1,736 in 2014, and 1,535 in 2015 (see table 20).

Monitoring female detainees in substitute cells

114. Male police officers are working at the four substitute cells currently in operation, but measures are taken to ensure that physical checkups are conducted by officers of the same gender.

Number and types of sexual violence reported by female inmates and punishment for rape in prison

115. From 2006 to 2015, there was only one sexual violence case committed by a prison official, which was reported by female inmates. The case was considered as indecent acts

by force. Refer to Paragraph 116 of this report for details on the results of handling the case. Rape in prison shall be punished under the *Criminal Act*, *Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes*, or *Act on the Protection of Children and Juveniles from Sexual Abuse*, depending on the age of perpetrator and victim, type of offense, measures used to commit offense, and the relationship between perpetrator and victim. Moreover, if a prison official takes advantage of his/her authority to commit rape, he/she shall be subjected to aggravated punishment by adding one half of the penalty specified for the crime committed (*Criminal Act* Art. 135). Furthermore, if a prison official in charge of overseeing inmates has sexual intercourse with an inmate, even with the latter's consent, the official shall be punished by imprisonment for not more than seven years (*Criminal Act* Art. 303 Para. 2).

Reply to the issues raised in Paragraph 19

Handling sexual violence against female inmates committed by a prison official

116. Except the only one case of indecent acts by force against female inmates committed by a prison official in February 2006, which is described in Paragraph 115, there was no sexual violence against female inmates by prison officials from 2006 to 2015. The NHRCK investigated 4 cases of sexual harassment, etc., by prison officials petitioned by female inmates between 2006 and 2011, 1 of which resulted in a recommendation of disciplinary measures and 3 of which were rejected. The case that led to the recommendation was the one that occurred in February 2006. The Government upheld the recommendation and dismissed the perpetrator in May 2006. In January 2007, the perpetrator was convicted: the sentence of imprisonment for four years and suspension of qualifications for three years was finally affirmed.

The MOJ's inspection of the conditions of substitute cells and independent bodies' access to the cells

117. Every year, the Human Rights Bureau of the MOJ conducts inspections on the human rights conditions in detention or protective facilities including substitute cells. The Bureau inspected 11 substitute cells in 2006, 8 in 2009, and 5 in 2012.

118. The MOJ inspected eight remaining substitute cells in 2009[7] on whether human rights improvement strategies adopted at the Consultative Meeting on the Improvement of Substitute Cells in 2007 were duly implemented. The MOJ confirmed that female detainees had been counseled by female police officers and that direct lighting had been provided in all eight cells. Most turned out to be in fairly good condition in terms of facilities and management, with cooling, heating, ventilation, and shower systems. However, one cell had no gym equipment available, and even the other seven that had gym equipment were having difficulty in utilizing them due to safety reasons and lack of personnel.

119. Since 2009, the competent prosecutors' offices have regularly inspected the human rights conditions in substitute cells. In addition, the NHRCK may visit substitute cells to conduct an investigation by its resolution (*National Human Rights Commission Act* Art. 24). The NHRCK inspected lockups in 2002 and recommended the MOJ to close down substitute cells in August 2004.

[7] The letter of the Rapporteur for Follow-up on Concluding Observations dated 14 May 2010 inquired about the inspection on substitute cells by the MOJ in 2009.

Construction and relocation of correctional facilities

120. In order to alleviate overcrowding in correctional facilities, the MOJ established the Plan on the Expansion of Correctional Facilities and Improvement of Conditions of Detention. Accordingly, six new correctional facilities were constructed and four were relocated between 2006 and 2015. In the long term, the MOJ plans to build or relocate 11 facilities, including the overcrowded An-yang Prison, which is over 30 years old (see table 21). Moreover, in order to address the rising number of female inmates and to protect their rights and interests, the MOJ has carefully examined the construction of correctional facilities for women.

121. Regarding the closure of substitute cells, three correctional facilities (Young-wol Prison, Hae-nam Prison, and Mil-yang Detention Center) were completed in 2009 and two (Sang-ju Prison and Jung-eup Prison) were completed in 2014. As of 31 December 2015, one correctional facility (Geo-chang Detention Center) is under construction. Refer to Paragraph 110 of this report for details.

Measures taken to conform with international minimum standards of detention facilities

122. The Human Rights Bureau of the MOJ inspects detention or protective facilities including substitute cells every year (once every three years for each facility) in order to check their conformity with domestic laws and subordinate statutes as well as international minimum standards in terms of their facilities and operation. Investigation teams visit the facilities, conduct first-hand checkups, and survey and interview inmates, after which the Bureau makes recommendations to improve human rights conditions. The Bureau made a total of 372 inspections between June 2006 and December 2015 (see table 22).

Articles 12 and 13

Reply to the issues raised in Paragraph 20

Handling cases of torture or ill-treatment

123. The first instance judgments on torture or ill-treatment cases are as follows: From 2006 to 2015, the court held trials for 13 persons on charges of illegal arrest or confinement (*Criminal Act* Art. 124). Out of 13 persons, 4 persons were sentenced to suspension of execution, 2 were sentenced to pecuniary punishment, and 7 were sentenced to suspension of sentence (see table 23). During the same period, the court held trials for 28 persons on charges of violence or cruel acts (Art. 125). Out of 28 persons, 3 persons were sentenced to imprisonment, 7 were sentenced to suspension of execution, 1 was sentenced to pecuniary punishment, 12 were sentenced to suspension of sentence, 2 were found not guilty, and 3 received other decisions[8] (see table 24). During the same period, the court held trials for 33 persons on charges that they committed a crime as provided in Articles 124 or 125 of the *Criminal Act*, resulting in the injury or death of any person (*Act on the Aggravated Punishment, etc. of Specific Crimes* Art. 4-2). Out of 33 persons, 5 persons were sentenced to imprisonment, 8 were sentenced to suspension of execution, 10 were sentenced to suspension of sentence, 7 were found not guilty, and 3 received other decisions[9] (see table 25). However, the Government does not manage the data on torture or ill-treatment disaggregated by age and gender. Refer to Paragraphs 146-147 of this report for redress including compensation and reparation for victims of torture.

[8] Refer to footnote No. 5.
[9] Refer to footnote No. 5.

Reasons for the increase of allegations of human rights violations

124. The increase in the number of allegations of human rights violations reported to the Human Rights Protection Division of the National Police Agency from 10 cases in 2007 to 19 in 2008 seems to have been influenced by promotion campaigns about the Division and the enhanced public awareness of human rights.

Reply to the issues raised in Paragraph 21

Measures available for individuals alleging injuries from torture and investigations thereof

125. The measures available for individuals alleging injuries from torture or ill-treatment are as described in the first and the second reports (CAT/C/32/Add.1 Paras. 37-43, 88 (a), (b), 89-90, 174, 187-190; CAT/C/53/Add.2 Paras. 14-19, 83-84). Moreover, they can file a petition with the Hotline Center of the MOJ.

126. If an allegation of torture committed by law enforcement officials is made, an audit prosecutor of the prosecutors' office at each level independently and impartially investigates the case, and if necessary, a special investigation team is organized to thoroughly investigate and reveal the facts.

127. The petition for court adjudication (quasi-indictment procedures) which counterbalances the possibility of unfair non-indictment decisions by prosecutors is as described in the third ICCPR report (CCPR/C/KOR/2005/3, Para. 237). Under the amendment of the *Criminal Procedure Act* on 1 June 2007, the scope of crimes for adjudication, which had been previously limited to crimes referred to in Articles 123 (abuse of official authority), 124 (illegal arrest and confinement), and 125 (violence and cruel acts) of the *Criminal Act*, was expanded to all crimes against which complaints have been filed (*Criminal Procedure Act* Art. 260 Para. 1).

128. By expanding the scope of crimes subject to petition for adjudication, a victim who files a complaint against torture or ill-treatment under Article 4-2 of the *Act on the Aggravated Punishment, etc. of Specific Crime* or Article 19 Paragraph 1 of the *National Intelligence Service Act* but receives notification of non-indictment decision by a prosecutor, can now file a petition for an adjudication to the court. Thus, perpetrators of torture or ill-treatment are expected to be thoroughly punished.

Handling cases of torture or ill-treatment in detention facilities

129. The Government does not separately manage statistics on torture or ill-treatment cases occurred in detention facilities. Victims of torture or ill-treatment in detention facilities can also take various measures, including filing a complaint or a petition. In particular, all new inmates including military inmates are informed of their rights and the remedy procedures, such as petition with the NHRCK. The Paragraphs below describe statistics managed by each institution in charge of relief for human rights violations in detention facilities.

130. Any inmate may, if dissatisfied with the treatment, file a petition to the Minister of Justice, public officials on circuit inspections, or the commissioners of regional correction headquarters (*Act on the Execution of Criminal Penalties and the Treatment of Inmates* Art. 117 Para. 1). Between 2006 and 2015, the number of petitions amounted to 1,495 in 2006, 1,999 in 2007, 2,330 in 2008, 2,205 in 2009, 1,573 in 2010, 1,313 in 2011, 1,094 in 2012, 1,071 in 2013, 903 in 2014, and 957 in 2015. Investigations confirmed that there was no case of cruel acts committed by prison officials. Any military inmate may, if dissatisfied with the treatment, file a petition to the Minister of National Defense or public officials on circuit inspections (*Act on the Execution of Criminal Penalties in the Armed Forces and the Treatment of Military Inmates* Art. 102 Para. 1).

131. Any person under medical treatment and custody, his/her legal representative, etc., may file a petition to the Minister of Justice for the improvement of treatment (*Medical Treatment and Custody Act* Art. 30 Para. 1). Between 2006 and 2015, there were 16 complaints and accusations against law enforcement officials of the Institute of Forensic Psychiatry, all of which were cleared of suspicion after investigation. They were filed for reasons such as refusal of a request for medical treatment at an external hospital, medical malpractice, or negligence of duties by medical practitioners.

132. A protected juvenile, etc., may submit a written petition to the Minister of Justice when he/she is dissatisfied with his/her treatment (*Act on the Treatment of Protected Juveniles, etc.* Art. 11). A foreigner in an immigration detention facility may file a petition to the Minister of Justice or the head of the competent Regional Immigration Service when he/she is dissatisfied with his/her treatment (*Immigration Act* Art. 56-8 Para. 1).

133. The NHRCK has handled petitions regarding human rights violation cases in detention facilities since 2001 (see table 26). Among the cases, one was referred to the prosecutors' office in 2011, and it was confirmed that the internal investigation over the case was terminated due to insufficient evidence on 22 April 2013. In 2014, two petitions were combined to one case, and it was referred to the prosecutors' office. As of January 2016, it is on the formal trial of criminal case.

Reply to the issues raised in Paragraph 22

134. The Torture Reporting Center was in operation temporarily from 28 June to 28 September 2010 by the NHRCK, as a follow-up measure of an *ex officio* investigation on the torture case committed by police officers of Yang-cheon police station. The Center received 15 cases: 2 petitions, 12 counseling cases, and 1 report. Both petitions were rejected: one petition was filed for the case in which the NHRCK had already accused the police officers of torture and violence occurred in Yang-cheon police station; the other one was withdrawn.

Reply to the issues raised in Paragraph 23

135. Under Article 6 of the *Act on the Punishment of Crimes under the Jurisdiction of the International Criminal Court*, a statute of limitations shall not be applied to crimes against humanity including torture, crime of genocide, and war crimes.

Reply to the issues raised in Paragraph 24

136. The five police officers of Yang-cheon police station, who were accused of torture, etc., by the NHRCK to the prosecutors' office, were prosecuted on 9 July 2010. Four were prosecuted under Article 4-2 of the *Act on the Aggravated Punishment, etc. of Specific Crimes* and Article 125 of the *Criminal Act*, and one was prosecuted under Article 125 of the *Criminal Act*. The court convicted the five police officers on 18 June 2011: one was sentenced to imprisonment for three years, three were sentenced to imprisonment for one year each, and one was sentenced to imprisonment for eight months with suspension of execution for two years taking into account the level of involvement and gravity of violence. All were dismissed from public office.

Reply to the issues raised in Paragraph 25

Petition and investigation system regarding abuses against migrant workers

137. The *Labor Standards Act* prescribes the labor inspector system (Arts. 101 through 106). An employee who has received a disadvantage by an employer's violation of the *Labor Standards Act* or other labor-related Acts and subordinate statutes may report to a

labor inspector regardless of his/her nationality. The labor inspector may investigate the case and order the employer to rectify it, or refer the case to the prosecutors' office for criminal punishment. The main contents of the *Labor Standards Act*, including the petition and investigation system, are explained during job trainings offered to foreigners under the Employment Permit System (E-9, H-2 visa) before they are sent to respective workplaces. The Support Center for Foreign Workers and the Counseling Center for Foreign Workers also provide counseling services related to labor and grievances in order to prevent disadvantageous treatment of migrant workers resulting from the illegal actions of their employers.

138. Under the *Labor Standards Act*, an employer shall be punished for forcing migrant workers to work by confiscating their passports or alien registration cards, thereby preventing them from rightfully leaving the workplace (Art. 7). Moreover, an employer shall not commit violence against an employee for the occurrence of accidents or for any other reason (Art. 8). Anyone who violates these provisions shall be imprisoned for not more than five years or fined not exceeding KRW 30 million respectively (Art. 107).

Handling petitions regarding sexual harassment filed by female migrant workers

139. There were ten petitions regarding sexual harassment in the workplace filed by female migrant workers with the NHRCK between 2006 and 2014. Out of the ten cases, two were closed by agreement, and one resulted in a suspension of investigation. The remaining seven were rejected.

Investigation outcome concerning the crackdown on Chinese female migrant workers

140. It was not police officers but immigration officials who employed unnecessary force against Chinese female migrant workers during the crackdown in South Chung-cheong Province on 8 April 2009. The prosecutor investigated the two immigration officials under the charge of violence against the two women. During the investigation, however, the victims reached an agreement with the officials by receiving KRW 7.5 million and 4 million respectively as compensation, and the prosecutor decided not to prosecute the officials on 11 August 2009.[10] The two immigration officials and one of their supervisors were subjected to disciplinary measures: one official was reprimanded, and the other official and their supervisor received warnings.

141. The Regulation on Due Process of Law and Protection of Human Rights in the Course of Crackdowns on Immigration Offenders (Directive of the MOJ) was enacted on 13 May 2009 in order to prevent human rights violations against foreigners during crackdowns. It prescribes that the director of investigation section shall explain the crackdown plan to officials beforehand and shall provide training sessions on due process of law, human rights protection, etc. (Art. 6).

Reply to the issues raised in Paragraph 26

142. The roles of the NHRCK in protecting human rights are as described in the second report and the third ICCPR report (CAT/C/53/Add.2 Paras. 14-19; CCPR/C/KOR/2005/3 Paras. 7-9).

143. If necessary, the NHRCK may visit detention or protective facilities to conduct an investigation by its resolution (*National Human Rights Commission Act* Art. 24). The Act

[10] A crime of violence shall not be prosecuted over the express objection of a victim (*Criminal Act* Art. 260 Para. 3).

guarantees the independence of the NHRCK (Art. 3 Para. 2) as well as the term of office and status of commissioners (Arts. 7, 8).

144. The NHRCK may issue recommendations to the prosecutors' offices, since the aforementioned Act does not exclude a particular state institution from the list of institutions to which recommendations may be made. In addition, if, as a result of the investigation of any petition, the NHRCK deems that the contents of a petition correspond to an act of crime against which criminal punishment is required, it may file an accusation to the Prosecutor General (Art. 45 Para. 1). The Prosecutor General who has received an accusation shall complete a criminal investigation within three months after the receipt and notify the NHRCK of the investigation results. Otherwise, he/she shall submit a reason for failing to do so within three months (Para. 3).

145. The amendment of the *National Human Rights Commission Act* on 21 March 2012 expanded the scope of investigation into human rights violations as described in the second UPR report (A/HRC/WG.6/14/KOR/1 Para. 8). Moreover, the amendment prescribes that the heads of institutions that have received recommendations from the NHRCK shall notify it of plans for the implementation of the recommendations within 90 days of receipt (Art. 25 Para. 3, Art. 44 Para. 2).

Article 14

Reply to the issues raised in Paragraph 27

146. The Constitution and relevant laws guarantee victims of torture and their bereaved family the right to fair and adequate compensation and reparation. Therefore, victims of torture or ill-treatment can file a claim for state compensation, criminal compensation or monetary relief for criminal injuries, or a claim for damages according to the *Civil Act*. Details are as described in the first and the second reports (CAT/C/32/Add.1 Paras. 40-41, 192 (d), 199-203; CAT/C/53/Add.2 Paras. 85-89).

147. However, the Government does not separately manage statistics on state compensation paid specifically to victims of torture. Moreover, a defendant found not guilty in a final and conclusive judgment or a suspect who is not prosecuted may claim criminal compensation or suspect compensation respectively not only for illegal arrest or confinement, which may constitute a form of torture, but also for legitimate detention imposed with a court warrant. However, the Government does not separately manage statistics on criminal or suspect compensation paid specifically to victims of torture.

148. Since victims of torture are identified as crime victims, the Smile Center may provide them with psychological and emotional treatment. The Government established and has operated eight Smile Centers (in Seoul, Busan, Gwang-ju, etc.) as of 2015, where experts with professional knowledge and extensive experience provide psychological support for crime victims who are temporarily staying at the Centers. They also offer victims legal counseling and assist them in preparing for testimonies and submitting psychologists' opinions and psychiatric medical reports (see table 27). Table 27 represents services provided to all crime victims by the Smile Center. Moreover, the Crime Victim Support Center may provide emergency relief and cover emergency living and medical expenses. Particularly, the Supreme Prosecutors' Office set up the Crime Victim Rights Division on 1 January 2008 and has made constant efforts to protect crime victims.

149. In March 2008, the Government introduced the Post-Traumatic Stress Disorder Treatment Program in the military. The purpose of this program is to provide early diagnosis of and prompt response to PTSD and educate service members, commanders, and medical personnel in the field of mental health. This program includes an assessment index for PTSD and a manual on the short-term and intensive psychiatric treatment.

150. The Guideline on the Management of PTSD Patients was established in October 2010. It provides guidelines for operating a medical team in cases where PTSD patients are expected, planning and implementing a PTSD prevention program at each unit, and providing education on PTSD management for commanders, personnel affairs officers, medical officers, and nurse officers of each unit.

151. The Armed Force Capital Hospital opened the Mental Health Promotion Center in May 2011. The Center's role is to conduct treatment, education, and research on mental diseases in the military and build a mechanism to effectively respond to PTSD. Refer to Paragraph 177 of this report for details.

Reply to the issues raised in Paragraph 28

152. Victims of human trafficking, since they are crime victims, may receive financial support including emergency living and medical subsidies from the Crime Victim Support Center. If necessary, they may enter the Smile Center to receive psychological and emotional treatment. They are also eligible to receive monetary relief for criminal injuries and free legal aid. Refer to Paragraphs 73-75 of this report for information on the support for foreign female victims of human trafficking.

153. Refer to Paragraph 167 of this report regarding Paragraph 14 of the Committee's previous recommendations (CAT/C/KOR/CO/2) and Paragraph 174 of this report regarding Paragraph 15 of the Committee's previous recommendations (CAT/C/KOR/CO/2).

154. The amendments of the *Criminal Act*, the *Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes*, and the *Act on the Protection of Children and Juveniles from Sexual Abuse* on 18 December 2012 eliminated all provisions that previously required a victim to file a complaint in order to prosecute a perpetrator of sexual violence. These changes are expected to result in more rigorous punishment for sexual offences.

Article 15

Reply to the issues raised in Paragraph 29

155. If a defendant was convicted due to statements obtained under torture, and the fact that torture had been committed was not revealed during the trial but revealed thereafter, the case may be retried (*Criminal Procedure Act* Art. 420 (7)). In the retrial, such statements shall not be admitted as evidence.

156. After the *Framework Act on Clearing Up Past Incidents for Truth and Reconciliation* was enacted on 31 May 2005, the Truth and Reconciliation Commission was established in order to investigate incidents related to the anti-Japanese independence movements, and anti-democratic human rights infringements and suspicious deaths since the Korean independence in 1945. From 1 December 2005 to 30 June 2010, a total of 11,175 cases were handled including the 10,860 cases submitted. The facts were determined for 8,450 of the cases. When damages were confirmed after requesting documentations from relevant organizations, investigating victims, witnesses, and stakeholders, or conducting on-site investigations, the Commission recommended the State to offer an official apology and take appropriate measures to compensate the damages and restore the honor of victims.

157. As of 25 January 2016, among 73 cases in which the Commission recommended retrials, 1 was transferred to the Armed Forces Military Court; 66 resulted in final and conclusive judgments of not-guilty; 1 request for a retrial was dismissed and 1 was withdrawn; and for the remaining 4 cases, victims did not request retrials. The statements obtained as a result of torture were not admitted as evidence in the retrials.

Reply to the issues raised in Paragraph 30

158. In accordance with Paragraph 16 of the Committee's previous recommendations (CAT/C/KOR/CO/2), the *Criminal Procedure Act* was amended on 1 June 2007 to impose stricter conditions on the admissibility of written evidence in criminal proceedings. Before the amendment, a protocol of interrogation of a suspect prepared by a prosecutor was admissible if "the defendant admits in his/her pleading in a preparatory hearing or a trial that its contents are the same as he/she stated and that the signature is genuine" (authentication). However, the amendment now adds further conditions that "the protocol is prepared in compliance with due process of law and proper methods" and "it is proved that the statement recorded in the protocol was made in a particularly reliable state" (Art. 312 Para. 1). Moreover, prior to the amendment, a protocol of interrogation of a suspect prepared by any investigation agency other than a prosecutor was admissible if "the defendant or his/her legal counsel admits its contents." The 2007 amendment added a condition that "the protocol is prepared in compliance with due process of law and proper methods" (Para. 3).

Article 16

Reply to the issues raised in Paragraph 31

159. The Government has endeavored to guarantee better access to appropriate medical services in detention facilities. A warden shall conduct medical examinations for inmates periodically (*Act on the Execution of Criminal Penalties and the Treatment of Inmates* Art. 34 Para. 1) and may permit them to receive medical treatment at external medical institutions, if necessary (Art. 37 Para. 1). If any inmate is suspected of suffering from a mental disease, a warden shall have such inmate receive psychiatric medical treatment (Art. 39 Para. 2). It is the same in military correctional facilities (*Act on the Execution of Criminal Penalties in the Armed Forces and the Treatment of Military Inmates* Art. 35 Para. 1, Art. 38 Para. 1, Art. 40 Para. 2).

160. Currently, each of the 52 correctional facilities has a clinic-level medical division with at least one doctor. Inmates are examined by an external medical checkup agency at least once a year, receive various vaccinations, have medical checkups at the time of admission, and are provided with proper medical care and treatment if they suffer from any illness. As of 31 December 2015, correctional facilities have 87 doctors including 58 medical specialists (66.7 %) and 29 general practitioners (33.3 %). Moreover, there are a total of 53 public health doctors working in their military service: among them, 44 are medicals and 9 are dentists (see table 28). Currently, general practitioners regularly visit military correctional facilities and treat military inmates at least three times a week.

161. In addition, the *Act on the Execution of Criminal Penalties and the Treatment of Inmates* was amended on 4 May 2010 to lay the legal ground for nurses working in correctional facilities to perform simple medical practices such as first aid procedures in order to promptly respond to emergency situations that may occur in correctional facilities at night or on holidays (Art. 36 Para. 2).

162. In order to prevent suicide in correctional facilities, the Correctional Psychological Test Program was developed in 2000 and has been applied to correctional facilities nationwide since 2001. For the management of prison life and early adaptation of inmates, this program serves as an evaluative tool for identifying individual tendencies that are difficult to be recognized in the short term. With this program, inmates showing suicidal behaviors can be identified and managed. Meanwhile, the Correctional Psychological Test Program for New Inmates, adopted from the program used in civilian correctional facilities,

was introduced and has been applied to military correctional institutions as a basic reference for military inmate management.

163. In military correctional facilities, the Psychological Counseling System for Inmates who Require Attention has been in operation since 1 March 2010. It manages inmates who require special attention, including persons at risk of suicide, by inviting external counselors to help them adjust to life in correctional facilities and provide them with emotional stability. Between 29 November and 3 December 2010, 15 inmates participated in this system. In 2011, there were 10 cases in the first quarter, 9 in the second quarter, 13 in the third quarter, and 12 in the fourth quarter. Since 2015, more detailed programs have been prepared, and a total of 46 cases have been conducted.

164. The Regular Psychiatric Examination for Inmates Who Require Attention has been in operation in military correctional facilities. Psychiatrists at military hospitals intensively examine inmates at high risk of suicide or accidents every quarter. If inmates require closer attention, psychiatrists provide counseling and medical treatment for them.

165. In order to prevent death in lockups, the National Police Agency established the Guideline on Lockup Management in 2008, which requires detainees to submit any dangerous items at the time of admission and guarantees their active engagement in religious activities in lockups. Also in 2015, the National Police Agency provided instructions for detainees to submit dangerous items, and for police officers to receive training programs for emergency aid.

166. On 30 May 2012, the Seoul Central District Court accepted the claims for state compensation by four women who had been arrested at a candlelight vigil in 2008 and forced to take off their brassieres for the reason that these could be used to commit suicide inside lockups. The Court ruled that the police officer's order to remove brassieres was illegal since it was beyond the minimum necessary extent to prevent suicide and that the State shall make reparation of KRW 1.5 million each for consolation. The final judgment was affirmed by the Supreme Court on 9 May 2013 (2011GaDan290916, 2013Da200438).

Reply to the issues raised in Paragraph 32

167. With regard to Paragraph 14 of the Committee's previous recommendations (CAT/C/KOR/CO/2), if a suicide or sudden death occurs in detention facilities, the MOJ, the MND, or the National Police Agency thoroughly investigates the cause. So far, no cases have been confirmed to be resulted from torture or ill-treatment.

168. If anyone dies or commits suicide in correctional facilities, the regional correction headquarters conduct on-site investigations on the details of the death and practices of the personnel on duty. Some prison officials faced disciplinary measures under the *National Public Official Act* for violating the rules regarding their duties, but no one received criminal punishment. From 2006 to 2015, 98 persons committed suicide and 183 persons died mainly of disease (see table 29).

169. If anyone commits suicide or suddenly dies in immigration detention facilities, the facilities ensure that such incidents are duly reported and thorough investigations are carried out by investigation agencies. Moreover, the facilities actively cooperate in investigations pursued by the NHRCK. With regard to suicides and sudden deaths in immigration detention facilities from 2006 to 2015, one foreigner died in 2006 and another one died in 2012. According to the investigation results by the investigation agency, one foreigner died of a fall while trying to escape in 2006, and another one died due to Alcohol Withdrawal Syndrome in 2012. With regard to the incidents in 2006 and in 2012, the personnel on duty faced reprimand as a disciplinary measure for negligence, and the claim for compensation for damage is proceeded respectively, but no one received criminal punishment.

170. If anyone commits suicide or dies unexpectedly in military correctional facilities, the Army Investigation Department or military police thoroughly inspects the site, carries out an autopsy, and identifies the cause. According to the investigation results, persons responsible for the incidents are punished for their actions. However, no one died in military detention facilities from 2006 to 2015.

171. Cases of suicide or sudden death in lockups in police stations are investigated according to the Guideline on Handling Unnatural Deaths. From 2006 to 2015, 7 persons committed suicide and 9 persons died in lockups (see table 30).

Reply to the issues raised in Paragraph 33

Measures taken to prevent ill-treatment in the military

172. In the military, the Directive on Unit Management was issued on 19 May 2009 in order to prevent ill-treatment and abuses including hazing. It prescribes specific regulations to prevent accidents, especially with regard to beating, cruel acts, and verbal violence, and set the standard for punishment of violators (see table 31).

173. With the aim of eradicating unreasonable practices that remain within barracks and creating a respectful culture among military personnel, the Code of Conduct for Barrack Life was established in July 2011.

A systematic research on the causes of suicide in the military

174. Following Paragraph 15 of the Committee's previous recommendations (CAT/C/KOR/CO/2), the Government analyzed the causes of suicide in the military. However, it was difficult to conclusively categorize such causes since suicide is triggered by a combination of various factors.

Evaluating suicide prevention measures and psychological and mental health services in the military

175. Since 2005, civilian professionals in psychological counseling have been employed as Professional Counselor for Barrack Life to provide counseling and psychological treatment for service members who have suicidal tendencies, difficulty adjusting to military life, or personal issues. With reference to Paragraph 15 of the Committee's previous recommendations (CAT/C/KOR/CO/2), on-site inspections and surveys on the Professional Counselor for Barrack Life conducted in 2010 revealed that it was highly satisfactory among service members. In 2014, surveys revealed that 57.4% of service members answered professional counseling services were of great help in handling grievances and gaining psychological stability. Since the number of counselors is currently not enough to satisfy all the needs of service members, more counselors are hired in phases (see table 32). As of 2015, there are a total of 320 counselors.

176. Military personnel at a high risk of suicide can be treated by a military psychiatrist. As of 2015, there are 93 military medical officers who specialize in psychiatry, 34 of whom work in military hospitals and 59 of whom work in units. The officers stationed in units provide specialized counseling to service members who are contemplating suicide, intervene in the early stages of risk, and decide on hospitalization. The number of military outpatients in the psychiatry department is increasing (see table 33). They are continuously managed with outpatient treatment after discharge from the hospital as well as with various intensive hospitalized programs including mental treatment, group treatment, and music/art therapy.

177. The Mental Health Promotion Center in the Armed Force Capital Hospital, which includes civilian experts, was established in May 2011 to treat and research diseases

specific to the military such as PTSD and adjustment disorders. The Center offers military psychiatric policies, supports education, and pursues projects in partnership with private sector. It has two rooms for outpatients, psychological test rooms, counseling rooms, one civilian psychiatrist, one clinical psychologist, one mental health social worker, five military medical officers, and six nurse officers.

Suicide Prevention Program in the Korean Military and comprehensive suicide prevention system

178. In 2008, the Government established the Suicide Prevention Program in the Korean Military to raise awareness and educate all military personnel on suicide prevention in accordance with Paragraph 15 of the Committee's previous recommendations (CAT/C/KOR/CO/2). This program has been in operation since 2009. Throughout this program, 5,800 specialized instructors of suicide prevention were trained as of 2015, and continuous and repeated education is offered to service members in each unit on a quarterly basis. This program educates all service members so that they can recognize suicidal service members and report them to officers. All service members are thereby encouraged to actively participate in suicide prevention activities, further contributing to suicide prevention in general.

179. Since July 2009, the Comprehensive Suicide Prevention System, consisting of three stages: 1) identification, 2) management, 3) handling, has been in operation. In the first stage, a personality-testing tool is used to identify mental, psychological, or personal irregularities during physical checkup before service members enter the military, and regular examinations are carried out to identify service members with a high risk of suicide. In the second stage, suicidal service members enter the Vision Camp and the Green Camp to participate in healing programs and receive psychiatric treatment for their smooth adjustment to military life. In the third stage, service members with severe suicidal tendencies are identified, and their capability of serving in the military is decided.

Reply to the issues raised in Paragraph 34

Prevention of ill-treatment in correctional facilities

180. In order to prevent ill-treatment related to the use of protective equipment and the imposition of disciplinary punishment in correctional facilities, the relevant Acts prescribe the conditions for using protective equipment, prohibition of using protective equipment as a means of disciplinary punishment, the grounds for imposing disciplinary punishment, and prohibition of imposing disciplinary punishment again for the same act, as described in the third ICCPR report (CCPR/C/KOR/2005/3 Paras.170-177).

181. The *Act on the Execution of Criminal Penalties* was wholly revised to the *Act on the Execution of Criminal Penalties and the Treatment of Inmates* on 21 December 2007 in order to prevent all forms of ill-treatment in correctional facilities. The main contents of the revision are as described in the fourth ICCPR report (CCPR/C/KOR/4 Para. 121).

182. The *Act on the Execution of Criminal Penalties in the Armed Forces* was wholly revised to the *Act on the Execution of Criminal Penalties in the Armed* Forces and the Treatment of Military Inmates on 2 November 2009 in order to prevent all forms of ill-treatment in military correctional facilities. The revision diversifies the types of disciplinary punishment while reducing the term of solitary confinement to a maximum of 30 days (Art. 94) and requires external experts to participate in the Disciplinary Punishment Committee (Art. 97 Para. 2). Furthermore, the Enforcement Rule, amended on 3 May 2010, prescribes that the use of protective equipment for purposes other than the surveillance of inmates shall be documented (Art. 134), thereby managing it rigorously.

Use of protective equipment and imposition of disciplinary punishment

183. There were 3,450 cases of protective equipment used in correctional facilities in 2007, 3,972 in 2008, 5,408 in 2009, 5,295 in 2010, 4,870 in 2011, 3,807 in 2012, 4,875 in 2013, 5,033 in 2014, and 5,732 in 2015. The data exclude the use of protective equipment with the purpose of surveillance in cases where an inmate is transferred or appears in court. There were 12,031 cases of disciplinary punishment in correctional facilities in 2006, 13,439 in 2007, 13,875 in 2008, 17,016 in 2009, 15,963 in 2010, 14,682 in 2011, 13,702 in 2012, 14, 652 in 2013, 15,541 in 2014, and 17,055 in 2015.

184. There were 2 cases of protective equipment used in military correctional facilities in 2010 and 3 in 2011. The data exclude the use of protective equipment with the purpose of surveillance in cases where an inmate is transferred or appears in court. In addition, there were 25 cases of solitary confinement in 2006, 22 in 2007, 8 in 2008, 28 in 2009, 18 in 2010, 13 in 2011, 49 in 2012, 30 in 2013, 39 in 2014, and 27 in 2015.

Petitions filed with the Torture Reporting Center

185. There was no petition regarding the use of protective equipment or the imposition of disciplinary punishment in detention facilities filed with the Torture Reporting Center, which was temporarily run by the NHRCK. Meanwhile, the NHRCK has handled petitions regarding the use of protective equipment and the imposition of disciplinary punishment in detention facilities since 2001 (see table 26).

Reply to the issues raised in Paragraph 35

186. Following the candlelight vigils in 2008, prosecutors investigated 24 complaints or accusations on the use of excessive force by the police while suppressing protests, and prosecuted 2 cases, both of which resulted in final judgments of pecuniary punishment. In the other 22 cases, either the perpetrators were not identified or the officers against whom the complaints or accusations had been filed were not involved in the offense.

187. As of 25 January 2016, with regard to the candlelight vigils in 2008, prosecutors instituted public prosecutions on 46 persons with detention and 170 persons without detention, summarily indicted 1,061 persons, and decided not to prosecute 211 persons. Out of the 46 persons who were detained and prosecuted, 3 were sentenced to imprisonment, 7 were sentenced to suspension of execution, 25 were sentenced to pecuniary punishment (their sentences were finally affirmed) and the remaining 11 are currently undergoing trial proceedings. Three who were sentenced to imprisonment were on charges of assaulting police officers, throwing Molotov Cocktail and traffic obstruction, and they were released after expiration of term of imprisonment. Also, the 11 persons currently in trial were all released and are going through the trial procedures without detention. As of 25 January 2016, no person remains detained.

188. The Government arrested only those who violated laws and committed offenses at the candlelight vigils and did not arrest anyone, including human rights defenders, without legal grounds. The Government also thoroughly guarantees lawful assemblies, protests, and relevant activities, and punishes only illegal actions such as violence or destruction of objects.

189. The NHRCK carried out investigations both ex officio and by petitions, with regard to the 2008 candlelight vigils. It confirmed that the police partially exercised excessive force in suppressing protests and violated human rights by injuring some demonstrators. The NHRCK recommended the Minister of the Interior to warn the Commissioner General of the National Police Agency. It also recommended the Commissioner General of the National Police Agency to adhere to defense-oriented security measures that prioritize life

and physical safety in order to prevent the recurrence of human rights violations when suppressing demonstrations (Plenary Committee Decision on 27 October 2008).

Reply to the issues raised in Paragraph 36

190. Under the *Mental Health Act*, if a patient was hospitalized by a person responsible for the patient's protection, the patient or the person responsible for the patient's protection may request the head of a Si/Gun/Gu to discharge or improve treatment for himself/herself or the hospitalized patient concerned (Art. 29 Para. 1).

191. As for tort lawsuits claiming damages, the Supreme Court ruled that if a mental health institution fails to notify, in writing, a mentally ill person of the procedure for requesting a discharge examination at the time of hospitalization or when extending the period of hospitalization, or if it fails to follow procedures prescribed in the *Mental Health Act* when a mentally ill person requests his/her discharge, the entire period of hospitalization is regarded as illegal confinement, which constitutes a tort (2006Da19832).

192. The *Habeas Corpus Act* which was enacted on 21 December 2007 establishes the procedure for filing a petition for habeas corpus with the court for any individual unduly deprived of his/her physical freedom due to institutionalization by an illegal administrative disposition or by a private party. The Act was amended on 10 June 2010 to further include an employee of the relevant confinement facility to those who can file a petition for habeas corpus (main clause of Art. 3). It also requires the head of such facility to notify a person prior to confinement that he/she may file a petition for habeas corpus with the court (Art. 3-2 Para. 1) in order to facilitate the use of habeas corpus relief. Otherwise, the head of the facility shall be subjected to a fine for negligence not exceeding KRW 5 million (Art. 20 Para. 1). From July 2008 to December 2015, the court received 2,415 petitions for habeas corpus and accepted 194 of them.

193. In accordance with the *National Human Rights Commission Act*, a victim may file a petition to the NHRCK, if human rights are violated during the performance of duties in mental health facilities (Art. 30 Para. 1 (1)), and if necessary, the NHRCK may visit mental health facilities to conduct an investigation (Art. 24). From 2006 to 2015, the number of petitions regarding mental health facilities received by the NHRCK increased: 217 in 2006; 500 in 2007; 593 in 2008; 900 in 2009; 1,277 in 2010; 1,534 in 2011; 2,067 in 2012; 2,649 in 2013; 3,374 in 2014; and 3,348 in 2015. Among the 12,972 petitions received from 2011 to 2015, 285 cases resulted in recommendations, 636 were closed by agreement, and 21 resulted in accusations, etc.

194. The main contents of the amendment of the *Mental Health Act* on 21 March 2008 are as described in the second UPR report (A/HRC/WG.6/14/KOR/1 Para. 12). Furthermore, it prohibits the head of a mental health facility from compelling a mentally ill person to engage in labor which is not for the purpose of medical treatment or rehabilitation (Art. 41 Para. 3) and committing violence or cruel acts (Art. 43 Para. 2). Any person who violates these provisions shall be subjected to criminal punishment (Arts. 56 (2-2), 55 (6-2)).

Reply to the issues raised in Paragraph 37

195. The *Enforcement Decree of the Elementary and Secondary Education Act*, amended on 18 March 2011, explicitly prohibits corporal punishment in schools as described in the second UPR report (A/HRC/WG.6/14/KOR/1 Para. 60). Training of teachers involves education on the prohibition against corporal punishment in schools.

196. If a teacher employs corporal punishment in school, he/she may face disciplinary measures, and if such corporal punishment constitutes violence or results in injuries, he/she may face criminal punishment. Moreover, the *National Human Rights Commission Act*,

amended on 21 March 2012, makes all elementary, middle and high schools subject to the investigation of the NHRCK and allows students to file petitions against human rights violations related to the performance of duties of schools (Art. 30 Para. 1 (1)).

197. The Government has adopted the following positive and non-violent forms of discipline. To enhance the practice-centered education for democratic citizenship through vitalization of students' self-governance activities, the Autonomous Student Court has been in operation in schools since 2006 and has been implemented in 1,720 schools as of 2015. In order to strengthen character education of students, 797 Law Love Schools (character building and school violence prevention education) have been in operation, 34 exemplary schools in character education have been selected through open competitions, and 31 pilot schools in character education have been in operation as of 2015. The Government has expanded the Wee Project: this is a system of psychosocial assistance in partnership with schools, municipal offices of education and the local community, which provides diagnosis, counseling, and treatment for at-risk students who have difficulty adjusting to school life (see table 34).

198. Meanwhile, there is no Act or subordinate statute that explicitly prohibits corporal punishment at home. However, if corporal punishment at home violates social norms by lacking legitimate purpose or appropriate means for exercising parental authority, a perpetrator may be punished for crimes of violence or infliction of injuries. The *Child Welfare Act* prohibits abuses that inflict injuries on a child's body (Art. 17 (3)), and such abuses shall be punished by imprisonment for not more than five years or a fine not exceeding KRW 30 million (Art. 71 Para. 1 (2)). In addition, the *Act on Special Cases Concerning the Punishment, etc. of Child Abuse* was enacted on 28 January 2014 in order to redefine child abuse, raise awareness of its criminal nature, and build a close connection between the protection measures for child victims and the punishment of perpetrators.

Reply to the issues raised in Paragraph 38

Observance of due process of law in the course of crackdowns on immigration offenders

199. During crackdowns on violators of the *Immigration Act*, the Government provides a Miranda Rule notice written in 10 different languages including English, Chinese, Russian, Thai, Vietnamese, and Mongolian as well as Korean so that migrants are informed of their rights to remain silent and appoint legal counsel in a language that they can understand.

200. The Regulation on Due Process of Law and Protection of Human Rights in the Course of Crackdowns on Immigration Offenders (Directive of the MOJ) prescribes that an immigration official shall inform a foreigner of his/her rights to remain silent and appoint legal counsel at the time of urgent custody (Art. 11 Para. 2) and that before an interrogation, an immigration official shall inform a foreigner of his/her rights to remain silent and have a legal counsel present (Art. 16, Art. 17 Para. 1).

Legal aid services for foreigners residing in the ROK

201. According to the *National Basic Living Security Act*, the Government provides foreign residents in the ROK whose income level is 125% lower than that of national median household income, which is designated by the Minister of Health and Welfare, with civil and criminal legal aid services in litigation through the Korea Legal Aid Corporation. From 2006 to 2015, legal aid services were provided with 46,086 civil and criminal cases to the foreign residents in the ROK (see table 35).

Special consideration given to migrant children and women on illegal stay

202. The Regulation on the Detention of Foreigners (Ordinance of the MOJ) has a special provision for children on illegal stay. Children under the age of 18, who have lived in immigration detention facilities for more than one month with the permission of their parents, may receive education appropriate for their age and ability, which may be commissioned to external welfare facilities (Art. 4 Para. 4). Moreover, immigration officials shall be designated exclusively for children under the age of 19 in custody in order to provide detention service adjusted to special needs (Para. 5).

203. A temporary release from detention (*Immigration Act* Art. 65) is actively used for vulnerable groups among irregular residents, such as women, children, patients, and pregnant women, but if detention is inevitable, they are accommodated in special rooms. In addition, if nursing, childcare, or other special needs are recognized, they may live with their family while staying in detention.

204. In cases where a school-age minor attending elementary/middle/high school and his/her parents are found to have illegal presence in the ROK, detention will be released on a temporary basis. This is to avoid discontinuation of schooling for the minor that can be resulted from an abrupt departure. Temporary stay will be allowed for the minor's parent to give him/her the time to prepare for departure.

Petitions regarding the conditions of immigration detention facilities

205. The Government has established and operated immigration detention facilities in accordance with the Regulation on Standards for Judicial Facilities (Directive of the MOJ), with efforts to meet international standards. From 2006 to 2015, among the petitions to the Hotline Center of the MOJ, a total of 25 cases related to immigration detention facilities were accepted and remedied. Major improvements in the facilities were installment of window for ventilation and lighting, repair of lighting, installment of emergency alarm bell inside a protection room, improvement of toilet sanitation, installment of 1:1 physical checkup room, and public phone to secure communication with outside.

As to whether applicants for refugee status are accommodated with irregular residents

206. As a rule, applicants for refugee status are not detained while the RSD procedures are ongoing. However, if a migrant who received a deportation order and is therefore under custody at an immigration detention facility applies for refugee status, he/she will be detained until the possible procedures, including litigation, are completed. In this case, the applicant for refugee status is accommodated with irregular residents.

Other issues

Reply to the issues raised in Paragraph 39

207. Regarding the ratification of the Optional Protocol to the Convention, the Government has carefully reviewed relevant domestic laws and institutions, possible conflicts between the Protocol and domestic laws, and whether it is necessary to amend domestic laws. Meanwhile, the NHRCK, which was established in 2001, is mandated with the functions corresponding to the roles of a national preventive mechanism as stipulated in the Optional Protocol. As a result, prevention of torture in detention or protective facilities, as intended in the Optional Protocol, has been achieved to a significant degree with the visit and investigation of such facilities by the NHRCK.

Reply to the issues raised in Paragraph 40

208. There is no Act related with anti-terrorism in the ROK. Details of the National Guideline on Anti-Terrorism Activities (Presidential Directive) are as described in the fourth ICCPR report (CCPR/C/KOR/4 Para. 19). However, the Guideline does not include legal safeguards and remedy procedures for persons subjected to anti-terrorism measures.

III. General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

Reply to the issues raised in Paragraph 41

Ratification of and withdrawal of reservations to international human rights treaties

209. The Government ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 18 October 2006 and the Convention on the Rights of Persons with Disabilities on 11 December 2008 to meet international standards in protecting the human rights of women and persons with disabilities. The Government withdrew a reservation regarding the right to have one's conviction and sentence reviewed by a higher tribunal under the ICCPR (Art. 14 Para. 5) on 2 April 2007 and made declarations regarding inter-State complaints (Art. 21) and individual communications (Art. 22) under the Convention on 9 November 2007. The Government also withdrew reservations regarding the right of a child to contact both parents under the Convention on the Rights of the Child (Art. 9 Para. 3) on 16 October 2008 and the exemption from reciprocity under the Refugee Convention (Art. 7) on 8 September 2009.

Major enactments and amendments

210. From 2006 to 2015, the *Act on the Punishment of Crimes under the Jurisdiction of the International Criminal Court*, the *Marriage Brokers Business Management Act*, the *Crime Victim Protection Fund Act*, the *Refugee Act* and the *Act on Special Cases Concerning the Punishment, etc. of Child Abuse* were enacted. Refer to Paragraphs 4 and 135 of this report for details of the Act on the Punishment of Crimes under the Jurisdiction of the International Criminal Court, Paragraph 79 for details of the Marriage Brokers Business Management Act, and Paragraph 198 for details of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse.

211. The *Refugee Act* was enacted on 10 February 2012 in order to observe international standards including the Refugee Convention regarding the RSD procedures and treatment of refugees. It is expected to significantly contribute to settling challenges concerning fairness, promptness and transparency of the RSD procedures and treatment of refugees. The Act prescribes the rights of refugee status applicants to be assisted by legal counsel (Art. 12) and to have persons with reliable relations to be present at interviews (Art. 13), and also allows interpretation services during interviews (Art. 14). The Act establishes the legal grounds for social security (Art. 31), basic livelihood security (Art. 32), and the guarantee of elementary and secondary education (Art. 33 Para. 1) for recognized refugees. The Act lays the legal grounds for living expenses support (Art. 40 Para. 1), employment to be permitted after six months from the date of application (Para. 2), and medical support (Art. 42) for refugee status applicants. In addition, in February 2014, "Immigration Reception Center" was established and has been in operation in order to provide residential and basic living support for refugee status applicants as well as to offer social integration program for recognized refugees.

212. The *Crime Victim Protection Fund Act* was enacted on 14 May 2010 to lay the legal ground for establishing a fund collected from penalties and indemnity paid by perpetrators (Art. 4) in order to secure stable and sufficient financial resources for the protection and support of victims.

213. The answers related with the amendments have been described in the responses to Paragraphs 1-40 of the list of issues. Please refer to the answers.

Reply to the issues raised in Paragraph 42

214. In May 2007, the Government held the National Human Rights Policy Council, chaired by the Minister of Justice with the participation of vice-ministerial level members of relevant ministries and organizations, as a consultative and coordinative organization for human rights policies. Since 2008, the Council has discussed the recommendations of human rights treaty bodies made to the ROK and the implementation thereof on its agenda in order to strengthen the implementation of such recommendations in the ROK.

215. The Government established and enforced the first and the second National Action Plan for the Promotion and Protection of Human Rights (NAP) as described in the fourth ICCPR report and the second UPR report (CCPR/C/KOR/4 Paras. 4-5; A/HRC/WG.6/14/KOR/1 Para. 7).

216. With the establishment of the first and the second NAP, the Government endeavored to fully reflect the recommendations of the NHRCK and the opinions of NGOs. In addition, the Government made efforts to incorporate the recommendations of human rights treaty bodies issued since May 2007 within the implementation tasks of the second NAP which was established in March 2012, by distributing the recommendations to relevant ministries and organizations, disaggregated by areas, ministries, and organizations.

217. The second NAP includes 221 implementation tasks in the areas of civil and political rights, economic, social, and cultural rights, human rights of vulnerable groups and minorities, human rights education, etc. Twenty-four ministries and organizations are responsible for implementing the relevant tasks. Every year, the implementation results are compiled and reported to the National Human Rights Policy Council and made public thereafter.

218. The second NAP contains tasks such as improving the arrest and detention system by stipulating specific and clear grounds for detention in the law, reinforcing the habeas corpus relief system, imposing stricter punishment for human trafficking and child selling, and ameliorating the conditions of substitute cells, and strengthening human rights protection in the course of crackdowns on and detainment of undocumented foreigners.

Reply to the issues raised in Paragraph 43

219. The answers have been described in the responses to Paragraphs 1-42 of the list of issues. Please refer to the answers.